

Brady Brammer proposes the following substitute bill:

Punitive Damages Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies provisions related to punitive damages.

Highlighted Provisions:

This bill:

- modifies provisions of the Victim Services Restricted Account; and
- requires, after a set date, that the state's portion of punitive damage payments that are

received in certain driving under the influence cases are deposited into the Victims Services Restricted Account.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-219, as enacted by Laws of Utah 2023, Chapter 150

78B-8-201, as last amended by Laws of Utah 2011, Chapter 79

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

Section 1. Section **63M-7-219** is amended to read:

63M-7-219 . Victim Services Restricted Account -- Funding -- Uses.

(1) There is created in the General Fund a restricted account known as the "Victim Services Restricted Account."

(2) The Victim Services Restricted Account is funded by:

- (a) money appropriated to the account by the Legislature;
- (b) money deposited from a judgment in favor of the state pursuant to the requirements of Section 78B-8-201;

- 30 ~~(b)~~ (c) gifts, donations, or grants from private entities or individuals; and
31 ~~(e)~~ (d) interest earned on money in the account.
- 32 (3) Subject to appropriation, the Legislature shall use the funds in the Victim Services
33 Restricted Account to fund services for victims, including using funds for:
34 (a) services provided by Children's Justice Centers;
35 (b) services for sexual assault and domestic violence victims;
36 (c) services recommended by the Utah Victim Services Commission under Section
37 63M-7-804; or
38 (d) any administrative costs associated with implementing victim services.

39 Section 2. Section **78B-8-201** is amended to read:

40 **78B-8-201 . Basis for punitive damages awards -- Section inapplicable to DUI**
41 **cases or providing illegal controlled substances -- Division of award with state -- Deposit**
42 **of state judgment payments.**

- 43 (1)(a) Except as otherwise provided by statute, punitive damages may be awarded only
44 if compensatory or general damages are awarded and it is established by clear and
45 convincing evidence that the acts or omissions of the tortfeasor are the result of
46 willful and malicious or intentionally fraudulent conduct, or conduct that manifests a
47 knowing and reckless indifference toward, and a disregard of, the rights of others.
- 48 (b) The limitations, standards of evidence, and standards of conduct of Subsection (1)(a)
49 do not apply to any claim for punitive damages arising out of the tortfeasor's:
50 (i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under
51 the influence of any drug or combination of alcohol and drugs as prohibited by
52 Section 41-6a-502;
53 (ii) causing death of another person by providing or administering an illegal
54 controlled substance to the person under Section 78B-3-801; or
55 (iii) providing an illegal controlled substance to any person in the chain of transfer
56 that connects directly to a person who subsequently provided or administered the
57 substance to a person whose death was caused in whole or in part by the substance.
- 58 (c) The award of a penalty under Section 78B-3-108 regarding shoplifting is not subject
59 to the prior award of compensatory or general damages under Subsection (1)(a)
60 whether or not restitution has been paid to the merchant prior to or as a part of a civil
61 action under Section 78B-3-108.
- 62 (2) Evidence of a party's wealth or financial condition shall be admissible only after a
63 finding of liability for punitive damages has been made.

- 64 (a) Discovery concerning a party's wealth or financial condition may only be allowed
65 after the party seeking punitive damages has established a prima facie case on the
66 record that an award of punitive damages is reasonably likely against the party about
67 whom discovery is sought and, if disputed, the court is satisfied that the discovery is
68 not sought for the purpose of harassment.
- 69 (b) Subsection (2)(a) does not apply to any claim for punitive damages arising out of the
70 tortfeasor's:
- 71 (i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under
72 the influence of any drug or combination of alcohol and drugs as prohibited by
73 Section 41-6a-502;
 - 74 (ii) causing death of another person or causing a person to be addicted by providing
75 or administering an illegal controlled substance to the person under Section
76 78B-3-801; or
 - 77 (iii) providing an illegal controlled substance to any person in the chain of transfer
78 that connects directly to a person who subsequently provided or administered the
79 substance to a person whose death was caused in whole or in part by the substance.
- 80 (3)(a) In any case where punitive damages are awarded, the court shall enter judgment as
81 follows:
- 82 (i) for the first \$50,000, judgment shall be in favor of the injured party; and
 - 83 (ii) any amount in excess of \$50,000 shall be divided equally between the state and
84 the injured party, and judgment to each entered accordingly.
- 85 (b)(i) The actual and bona fide attorney fees and costs incurred in obtaining and
86 collecting the judgment for punitive damages shall be considered to have been
87 incurred by the state and the injured party in proportion to the judgment entered in
88 each party's behalf.
- 89 (A) The state and injured party shall be responsible for each one's proportionate
90 share only.
 - 91 (B) The state is liable to pay its proportionate share only to the extent it receives
92 payment toward its judgment.
- 93 (ii) If the court awards attorney fees and costs to the injured party as a direct result of
94 the punitive damage award, the state shall have a corresponding credit in a
95 proportionate amount based on the amounts of the party's respective punitive
96 damage judgments. This credit may be applied as an offset against the amount of
97 attorney fees and costs charged to the state for obtaining the punitive damage

- 98 judgment.
- 99 (c) The state shall have all rights due a judgment creditor to collect the full amounts of
100 both punitive damage judgments until the judgments are fully satisfied.
- 101 (i) Neither party is required to pursue collection.
- 102 (ii) In pursuing collection, the state may exercise any of its collection rights under
103 Section 63A-3-301 et seq., Section 63A-3-502 et seq., and any other statutory
104 provisions. Any amounts collected on these judgments by either party shall be
105 held in trust and distributed as set forth in Subsection (3)(e).
- 106 (d) Unless all affected parties, including the state, expressly agree otherwise, collection
107 on the punitive damages judgment shall be deferred until all other judgments have
108 been fully paid. Any payment by or on behalf of any judgment debtor, whether
109 voluntary, by execution, or otherwise, shall be distributed and applied in the
110 following order:
- 111 (i) to the judgment for compensatory damage and any applicable judgment for
112 attorney fees and costs;
- 113 (ii) to the initial \$50,000 of the punitive damage judgment;
- 114 (iii) to any judgment for attorney fees and costs awarded as a direct result of the
115 punitive damages; and
- 116 (iv) to the remaining judgments for punitive damages.
- 117 (e) Any partial payments shall be distributed equally between the state and injured party.
- 118 (f) After the payment of attorney fees and costs, all amounts paid on the state's judgment
119 shall be remitted:
- 120 (i) for an amount received on or before May 11, 2025, to the state treasurer to be
121 deposited into the General Fund[-] ; and
- 122 (ii) for an amount received after May 11, 2025, to the state treasurer to be deposited
123 into the Victims Services Restricted Fund established in Section 63M-7-219.

124 **Section 3. Effective Date.**

125 This bill takes effect on May 7, 2025.