

Chapter 7 Criminal Justice and Substance Abuse

Part 1 General Provisions

63M-7-101 Title.

This chapter is known as "Criminal Justice and Substance Abuse."

Enacted by Chapter 382, 2008 General Session

Part 2 Commission on Criminal and Juvenile Justice

63M-7-201 Creation -- Purpose.

- (1) The State Commission on Criminal and Juvenile Justice is created within the governor's office.
- (2) The commission's purpose is to:
 - (a) promote broad philosophical agreement concerning the objectives of the criminal and juvenile justice system in Utah;
 - (b) provide a mechanism for coordinating the functions of the various branches and levels of government concerned with criminal and juvenile justice to achieve those objectives;
 - (c) coordinate statewide efforts to reduce crime and victimization in Utah; and
 - (d) accomplish the duties enumerated in Section 63M-7-204.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-202 Composition -- Appointments -- Ex officio members -- Terms -- United States Attorney as nonvoting member.

- (1) The commission on criminal and juvenile justice shall be composed of 25 voting members as follows:
 - (a) the chief justice of the supreme court, as the presiding officer of the judicial council, or a judge designated by the chief justice;
 - (b) the state court administrator or the state court administrator's designee;
 - (c) the executive director of the Department of Corrections or the executive director's designee;
 - (d) the executive director of the Department of Human Services or the executive director's designee;
 - (e) the commissioner of the Department of Public Safety or the commissioner's designee;
 - (f) the attorney general or an attorney designated by the attorney general;
 - (g) the president of the chiefs of police association or a chief of police designated by the association's president;
 - (h) the president of the sheriffs' association or a sheriff designated by the association's president;
 - (i) the chair of the Board of Pardons and Parole or a member of the Board of Pardons and Parole designated by the chair;
 - (j) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing Commission designated by the chair;

- (k) the chair of the Utah Substance Use and Mental Health Advisory Council or a member of the Utah Substance Use and Mental Health Advisory Council designated by the chair;
 - (l) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of Juvenile Justice designated by the chair;
 - (m) the chair of the Utah Council on Victims of Crime or a member of the Utah Council on Victims of Crime designated by the chair;
 - (n) the executive director of the Salt Lake Legal Defender Association or an attorney designated by the executive director;
 - (o) the chair of the Utah Indigent Defense Commission or a member of the Indigent Defense Commission designated by the chair;
 - (p) the Salt Lake County District Attorney or an attorney designated by the district attorney; and
 - (q) the following members designated to serve four-year terms:
 - (i) a juvenile court judge, appointed by the chief justice, as presiding officer of the Judicial Council;
 - (ii) a representative of the statewide association of public attorneys designated by the association's officers;
 - (iii) one member of the House of Representatives who is appointed by the speaker of the House of Representatives; and
 - (iv) one member of the Senate who is appointed by the president of the Senate.
- (2) The governor shall appoint the remaining five members to four-year staggered terms as follows:
- (a) one criminal defense attorney appointed from a list of three nominees submitted by the Utah State Bar Association;
 - (b) one attorney who primarily represents juveniles in delinquency matters appointed from a list of three nominees submitted by the Utah Bar Association;
 - (c) one representative of public education;
 - (d) one citizen representative; and
 - (e) a representative from a local faith who has experience with the criminal justice system.
- (3) In addition to the members designated under Subsections (1) and (2), the United States Attorney for the district of Utah or an attorney designated by the United States Attorney may serve as a nonvoting member.
- (4) In appointing the members under Subsection (2), the governor shall take into account the geographical makeup of the commission.

Amended by Chapter 354, 2020 General Session

63M-7-203 Executive director -- Qualifications -- Compensation -- Appointment -- Functions.

- (1) The governor, with the advice and consent of the Senate, shall appoint a person experienced in the field of criminal justice and in administration as the executive director of the Commission on Criminal and Juvenile Justice. The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
- (2)
- (a) The executive director, under the direction of the commission, shall administer the duties of the commission and act as the governor's advisor on national, state, regional, metropolitan, and local government planning as it relates to criminal justice.
 - (b) This chapter does not derogate the planning authority conferred on state, regional, metropolitan, and local governments by existing law.

Amended by Chapter 352, 2020 General Session

63M-7-204 Duties of commission.

- (1) The State Commission on Criminal and Juvenile Justice administration shall:
 - (a) promote the commission's purposes as enumerated in Section 63M-7-201;
 - (b) promote the communication and coordination of all criminal and juvenile justice agencies;
 - (c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;
 - (d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;
 - (e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;
 - (f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;
 - (g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;
 - (h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;
 - (i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;
 - (j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;
 - (k) provide a comprehensive criminal justice plan annually;
 - (l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;
 - (m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:
 - (i) developing and maintaining common data standards for use by all state criminal justice agencies;
 - (ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;
 - (iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and
 - (iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);
 - (n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;
 - (o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

- (p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 62A-15-103(2)(l);
 - (q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;
 - (r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;
 - (s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;
 - (t) allocate and administer grants, from money made available, for pilot qualifying education programs;
 - (u) oversee the trauma-informed justice program described in Section 63M-7-209;
 - (v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;
 - (w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:
 - (i) ensuring oversight and accountability;
 - (ii) supporting local corrections systems;
 - (iii) improving and expanding reentry and treatment services; and
 - (iv) strengthening probation and parole supervision;
 - (x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 62A-15-103(2)(n) that:
 - (i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and
 - (ii) separates the data provided under Subsection 62A-15-103(2)(n) by each mental health or substance use treatment program; and
 - (y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.
- (2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Amended by Chapter 187, 2022 General Session

63M-7-205 Annual report by the commission.

- (1) The commission shall annually prepare and publish a report directed to the governor, the Legislature, and the Judicial Council.
- (2) The report shall describe how the commission fulfilled its statutory purposes and duties during the year.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-206 Election of chair -- Meetings.

The membership of the Commission on Criminal and Juvenile Justice by simple majority vote of those in attendance shall annually elect one of their number to serve as chair. The chair is responsible for the call and conduct of meetings. Meetings shall be called and held at least bimonthly. One of the bimonthly meetings shall be held while the Legislature is convened in its annual session. Additional meetings may be called upon request by a majority of the commission's members.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-207 Members serve without pay -- Reimbursement for expenses.

- (1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

63M-7-208 Juvenile justice oversight -- Delegation -- Effective dates.

- (1) The Commission on Criminal and Juvenile Justice shall:
 - (a) support implementation and expansion of evidence-based juvenile justice programs and practices, including assistance regarding implementation fidelity, quality assurance, and ongoing evaluation;
 - (b) examine and make recommendations on the use of third-party entities or an intermediary organization to assist with implementation and to support the performance-based contracting system authorized in Subsection (1)(m);
 - (c) oversee the development of performance measures to track juvenile justice reforms, and ensure early and ongoing stakeholder engagement in identifying the relevant performance measures;
 - (d) evaluate currently collected data elements throughout the juvenile justice system and contract reporting requirements to streamline reporting, reduce redundancies, eliminate inefficiencies, and ensure a focus on recidivism reduction;
 - (e) review averted costs from reductions in out-of-home placements for juvenile justice youth placed with the Division of Juvenile Justice Services and the Division of Child and Family Services, and make recommendations to prioritize the reinvestment and realignment of resources into community-based programs for youth living at home, including the following:
 - (i) statewide expansion of:
 - (A) juvenile receiving centers, as defined in Section 80-1-102;
 - (B) mobile crisis outreach teams, as defined in Section 62A-15-102;
 - (C) youth courts; and
 - (D) victim-offender mediation;
 - (ii) statewide implementation of nonresidential diagnostic assessment;
 - (iii) statewide availability of evidence-based programs and practices including cognitive behavioral and family therapy programs for minors assessed by a validated risk and needs assessment as moderate or high risk;

- (iv) implementation and infrastructure to support the sustainability and fidelity of evidence-based juvenile justice programs, including resources for staffing, transportation, and flexible funds; and
- (v) early intervention programs such as family strengthening programs, family wraparound services, and proven truancy interventions;
- (f) assist the Administrative Office of the Courts in the development of a statewide sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's family to pay;
- (g) analyze the alignment of resources and the roles and responsibilities of agencies, such as the operation of early intervention services, receiving centers, and diversion, and make recommendations to reallocate functions as appropriate, in accordance with Section 80-5-401;
- (h) ensure that data reporting is expanded and routinely review data in additional areas, including:
 - (i) referral and disposition data by judicial district;
 - (ii) data on the length of time minors spend in the juvenile justice system, including the total time spent under court jurisdiction, on community supervision, and in each out-of-home placement;
 - (iii) recidivism data for minors who are diverted to a nonjudicial adjustment under Section 80-6-304 and minors for whom dispositions are ordered under Section 80-6-701, including tracking minors into the adult corrections system;
 - (iv) change in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and
 - (v) dosage of programming;
- (i) develop a reasonable timeline within which all programming delivered to minors in the juvenile justice system must be evidence-based or consist of practices that are rated as effective for reducing recidivism by a standardized program evaluation tool;
- (j) provide guidelines to be considered by the Administrative Office of the Courts and the Division of Juvenile Justice Services in developing tools considered by the Administrative Office of the Courts and the Division of Juvenile Justice Services in developing or selecting tools to be used for the evaluation of juvenile justice programs;
- (k) develop a timeline to support improvements to juvenile justice programs to achieve reductions in recidivism and review reports from relevant state agencies on progress toward reaching that timeline;
- (l) subject to Subsection (2), assist in the development of training for juvenile justice stakeholders, including educators, law enforcement officers, probation staff, judges, Division of Juvenile Justice Services staff, Division of Child and Family Services staff, and program providers;
- (m) subject to Subsection (3), assist in the development of a performance-based contracting system, which shall be developed by the Administrative Office of the Courts and the Division of Juvenile Justice Services for contracted services in the community and contracted out-of-home placement providers;
- (n) assist in the development of a validated detention risk assessment tool that shall be developed or adopted and validated by the Administrative Office of the Courts and the Division of Juvenile Justice Services as provided in Section 80-5-203 on and after July 1, 2018; and

- (o) annually issue and make public a report to the governor, president of the Senate, speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the progress of the reforms and any additional areas in need of review.
- (2) Training described in Subsection (1)(l) should include instruction on evidence-based programs and principles of juvenile justice, such as risk, needs, responsivity, and fidelity, and shall be supplemented by the following topics:
 - (a) adolescent development;
 - (b) identifying and using local behavioral health resources;
 - (c) implicit bias;
 - (d) cultural competency;
 - (e) graduated responses;
 - (f) Utah juvenile justice system data and outcomes; and
 - (g) gangs.
- (3) The system described in Subsection (1)(m) shall provide incentives for:
 - (a) the use of evidence-based juvenile justice programs and practices rated as effective by the tools selected in accordance with Subsection (1)(j);
 - (b) the use of three-month timelines for program completion; and
 - (c) evidence-based programs and practices for minors living at home in rural areas.
- (4) The Commission on Criminal and Juvenile Justice may delegate the duties imposed under this section to a subcommittee or board established by the Commission on Criminal and Juvenile Justice in accordance with Subsection 63M-7-204(2).
- (5) Subsections (1)(a) through (c) take effect August 1, 2017. The remainder of this section takes effect July 1, 2018.

Amended by Chapter 262, 2021 General Session

63M-7-209 Trauma-informed justice program.

- (1) As used in this section:
 - (a) "Committee" means the Multi-Disciplinary Trauma-Informed Committee created under Subsection (2).
 - (b) "First responder" includes:
 - (i) a law enforcement officer, as defined in Section 53-13-103;
 - (ii) emergency medical service personnel, as defined in Section 26-8a-102; and
 - (iii) a firefighter.
 - (c) "Trauma-informed" means a policy, procedure, program, or practice that demonstrates an ability to minimize retraumatization associated with the criminal and juvenile justice system.
 - (d) "Victim" means the same as that term is defined in Section 77-37-2.
- (2)
 - (a) The commission shall create a committee known as the Multi-Disciplinary Trauma-Informed Committee to assist the commission in meeting the requirements of this section. The commission shall provide for the membership, terms, and quorum requirements of the committee, except that:
 - (i) at least one member of the committee shall be a victim;
 - (ii) the executive director of the Department of Health or the executive director's designee shall be on the committee;
 - (iii) the executive director of the Department of Human Services or the executive director's designee shall be on the committee; and
 - (iv) the commission shall terminate the committee on June 30, 2020.

- (b) The commission shall use the Utah Office for Victims of Crime, the Utah Office on Domestic and Sexual Violence, and the Utah Council on Victims of Crime in meeting the requirements of this section.
- (3)
- (a) The committee shall work with statewide coalitions, children's justice centers, and other stakeholders to complete, by no later than September 1, 2019, a review of current and recommended trauma-informed policies, procedures, programs, or practices in the state's criminal and juvenile justice system, including:
 - (i) reviewing the role of victim advocates and victim services in the criminal and juvenile justice system and:
 - (A) how to implement the option of a comprehensive, seamless victim advocate system that is based on the best interests of victims and assists a victim throughout the criminal and juvenile justice system or a victim's process of recovering from the trauma the victim experienced as a result of being a victim of crime; and
 - (B) recommending what minimum qualifications a victim advocate must meet, including recommending trauma-informed training or trauma-informed continuing education hours;
 - (ii) reviewing of best practice standards and protocols, including recommending adoption or creation of trauma-informed interview protocols, that may be used to train persons within the criminal and juvenile justice system concerning trauma-informed policies, procedures, programs, or practices, including training of:
 - (A) peace officers that is consistent with the training developed under Section 53-10-908;
 - (B) first responders;
 - (C) prosecutors;
 - (D) defense counsel;
 - (E) judges and other court personnel;
 - (F) the Board of Pardons and Parole and its personnel;
 - (G) the Department of Corrections, including Adult Probation and Parole; and
 - (H) others involved in the state's criminal and juvenile justice system;
 - (iii) recommending outcome based metrics to measure achievement related to trauma-informed policies, procedures, programs, or practices in the criminal and juvenile justice system;
 - (iv) recommending minimum qualifications and continuing education of individuals providing training, consultation, or administrative supervisory consultation within the criminal and juvenile justice system regarding trauma-informed policies, procedures, programs, or practices;
 - (v) identifying needs that are not funded or that would benefit from additional resources;
 - (vi) identifying funding sources, including outlining the restrictions on the funding sources, that may fund trauma-informed policies, procedures, programs, or practices;
 - (vii) reviewing which governmental entities should have the authority to implement recommendations of the committee; and
 - (viii) reviewing the need, if any, for legislation or appropriations to meet budget needs.
 - (b) Whenever the commission conducts a related survey, the commission, when possible, shall include how victims and their family members interact with Utah's criminal and juvenile justice system, including whether the victims and family members are treated with trauma-informed policies, procedures, programs, or practices throughout the criminal and juvenile justice system.
- (4) The commission shall establish and administer a performance incentive grant program that allocates money appropriated by the Legislature to public or private entities:

- (a) to provide advocacy and related service for victims in connection with the Board of Pardons and Parole process; and
 - (b) that have demonstrated experience and competency in the best practices and standards of trauma-informed care.
- (5) The commission shall report to the Judiciary Interim Committee, at the request of the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee by no later than the September 2019 interim regarding the grant under Subsection (4), the committee's activities under this section, and whether the committee should be extended beyond June 30, 2020.

Amended by Chapter 36, 2022 General Session

63M-7-210 Pilot program of competency-based career and technical education grants.

- (1) As used in this section:
- (a) "Certificate program provider" means a technical college that provides competency-based career and technical education.
 - (b) "Commission" means the State Commission on Criminal and Juvenile Justice.
 - (c)
 - (i) "Competency-based career and technical education" means career and technical education that will result in appropriate licensing, certification, or other evidence of completion of training and qualification for specific employment.
 - (ii) "Competency-based career and technical education" includes services provided under Section 53B-2a-106.
 - (d) "Qualifying education program" means a program overseen by a city or county prosecutor office to provide for an individual obtaining:
 - (i) a high school diploma or a Utah high school completion diploma as defined by rule made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
 - (ii) competency-based career and technical education.
 - (e) "Technical college" means the same as that term is defined in Section 53B-1-101.5.
- (2) In accordance with this section, the commission shall establish a pilot grant program for fiscal year 2019 that funds the costs of two employees who:
- (a) are located in different prosecutor offices that operate in areas that have proximity to a technical college; and
 - (b) oversee a program that provides for participation in a qualifying education program by an individual who is convicted of, pleads guilty to, or pleads no contest to a misdemeanor or third degree felony:
 - (i) as an alternative to incarceration;
 - (ii) for a reduction of fines or court fees;
 - (iii) for a two-step conviction reduction under Section 76-3-402; or
 - (iv) for a combination of the actions described in Subsections (2)(b)(i) through (iii).
- (3) As a condition of participating in a qualifying education program under this section, an individual shall:
- (a) comply with the requirements of the plea agreement entered into by the individual, the prosecutor, and the court; and
 - (b) work with a financial aid officer for a qualifying education program and pay the tuition for the competency-based career and technical education charged by the certificate program provider.

- (4) The commission will structure and administer the grant pilot program consistent with other grant program requirements that the commission administers.
- (5) The commission shall compile a report regarding this grant pilot program based on performance measures and provide the report by no later than November 30, 2020, to the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittee.

Amended by Chapter 136, 2019 General Session

63M-7-213 Study on rampage violence -- Report.

- (1) As used in this section:
 - (a) "Perpetrator" means an individual responsible for a rampage violence incident.
 - (b) "Rampage violence incident" means a violent act or shooting that occurs in a place of public use and results in at least three fatalities.
- (2) Before October 2022, the State Commission on Criminal and Juvenile Justice shall conduct a study on rampage violence incidents.
- (3) The study described in Subsection (2) shall:
 - (a) evaluate rampage violence incidents that have occurred in the United States by researching, for each rampage violence incident evaluated:
 - (i) where the rampage violence incident took place;
 - (ii) the duration of the rampage violence incident;
 - (iii) the weapon used in the rampage violence incident;
 - (iv) whether the perpetrator:
 - (A) had any history of mental illness, substance abuse, criminal or domestic violence charges, or making violent threats; or
 - (B) experienced a significant life stressor before the rampage violence incident;
 - (v) the age and gender of the perpetrator; and
 - (vi) any apparent motive of the perpetrator for the rampage violence incident;
 - (b) evaluate rampage violence incidents that have occurred in the state in the manner described in Subsection (3)(a); and
 - (c) examine policies or legislation enacted in the United States in response to a rampage violence incident and the effectiveness of the policies or legislation.
- (4) The State Commission on Criminal and Juvenile Justice shall ensure that the study described in Subsection (2) is conducted:
 - (a) in an unbiased manner with no preconceived notions about potential results; and
 - (b) by a multidisciplinary team comprised of individuals who represent the following disciplines:
 - (i) public health;
 - (ii) mental health;
 - (iii) social science; and
 - (iv) criminal science.
- (5) The State Commission on Criminal and Juvenile Justice may contract with another state agency, private entity, or research institution to assist the State Commission on Criminal and Juvenile Justice with the study described in Subsection (2).
- (6)
 - (a) Before November 30, 2022, the State Commission on Criminal and Juvenile Justice shall submit to the Law Enforcement and Criminal Justice Interim Committee a final report regarding the study described in Subsection (2), including proposed legislation and recommendations for prevention of rampage violence incidents.

- (b) The final report shall include references to all sources of information and data used in the final report and study.

Enacted by Chapter 433, 2020 General Session

63M-7-213.5 Rampage Violence Prevention Study Fund.

- (1) There is created an expendable special revenue fund known as the "Rampage Violence Prevention Study Fund."
- (2) The fund shall consist of:
 - (a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from public or private individuals or entities; and
 - (b) interest earned on money in the fund.
- (3) The State Commission on Criminal and Juvenile Justice shall administer the fund in accordance with this section.
- (4)
 - (a) The State Commission on Criminal and Juvenile Justice shall award fund money to an entity or individual for the purpose of administering the study described in Section 63M-7-213.
 - (b) Fund money may only be used for the purposes described in this Subsection (4).
- (5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest and other earnings derived from the fund shall be deposited into the fund.
- (6) Before November 30, 2021, the State Commission on Criminal and Juvenile Justice shall submit to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report regarding the status of the fund, including the contributions received and expenditures made from the fund.

Enacted by Chapter 433, 2020 General Session

63M-7-214 Commission on Criminal and Juvenile Justice -- Grants.

- (1) As used in this section:
 - (a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
 - (b) "Law enforcement agency" means a state or local law enforcement agency.
 - (c) "Other appropriate agency" means a state or local government agency, or a nonprofit organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug activity and related criminal activity by:
 - (i) programs, including education, prevention, treatment, and research programs; and
 - (ii) enforcement of laws regarding illegal drugs.
- (2) The commission shall implement law enforcement operations and programs related to reducing illegal drug activity as listed in Subsection (3).
- (3)
 - (a) The first priority of the commission is to annually allocate not more than \$2,500,000, depending upon funding available from other sources, to directly fund the operational costs of state and local law enforcement agencies' drug or crime task forces, including multijurisdictional task forces.
 - (b) The second priority of the commission is to allocate grants for specified law enforcement agency functions and other agency functions as the commission finds appropriate to more

effectively reduce illegal drug activity and related criminal activity, including providing education, prevention, treatment, and research programs.

- (4)
 - (a) In allocating grants and determining the amount of the grants to carry out the purposes of Subsection (3), the commission shall consider:
 - (i) the demonstrated ability of the agency to appropriately use the grant to implement the proposed functions and how this function or task force will add to the law enforcement agency's current efforts to reduce illegal drug activity and related criminal activity; and
 - (ii) the agency's cooperation with other state and local agencies and task forces.
 - (b) Agencies qualify for a grant only if they demonstrate compliance with all reporting and policy requirements applicable under this section and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential grant recipient.
- (5) The commission shall allocate grants to local law enforcement agencies to assist in complying with the requirements of Subsection 63A-16-1002(4). The commission shall only use funds appropriated for this purpose for the grants.
- (6) Recipient agencies may only use grant money after approval or appropriation by the agency's governing body, and a determination that the grant money is nonlapsing.
- (7) A recipient law enforcement agency may use funds granted under this section only for the purposes stated by the commission in the grant.
- (8)
 - (a) For each fiscal year, any law enforcement agency that receives a grant from the commission under this section shall prepare and file with the commission and the state auditor a report in a form specified by the commission.
 - (b) The report shall include the following regarding each grant:
 - (i) the agency's name;
 - (ii) the amount of the grant;
 - (iii) the date of the grant;
 - (iv) how the grant has been used; and
 - (v) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that all grant funds were used for law enforcement operations and programs approved by the commission and that relate to reducing illegal drug activity and related criminal activity, as specified in the grant.

Amended by Chapter 390, 2022 General Session

63M-7-215 Pretrial Release Programs Special Revenue Fund -- Funding -- Uses.

- (1) As used in this section:
 - (a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
 - (b) "Fund" means the Pretrial Release Programs Special Revenue Fund created in this section.
- (2) There is created an expendable special revenue fund known as the "Pretrial Release Programs Special Revenue Fund."
- (3) The Division of Finance shall administer the fund in accordance with this section.
- (4) The fund shall consist of:
 - (a) money collected and remitted to the fund under Section 77-20-403;
 - (b) appropriations from the Legislature;
 - (c) interest earned on money in the fund; and
 - (d) contributions from other public or private sources.

- (5) The commission shall award grants from the fund to county agencies and other agencies the commission determines appropriate to assist counties with establishing and expanding pretrial services programs that serve the purpose of:
 - (a) assisting a court in making an informed decision regarding an individual's pretrial release; and
 - (b) providing supervision of an individual released from law enforcement custody on conditions pending a final determination of a criminal charge filed against the individual.
- (6) The commission may retain up to 3% of the money deposited into the fund to pay for administrative costs incurred by the commission, including salary and benefits, equipment, supplies, or travel costs that are directly related to the administration of this section.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish a grant application and review process for the expenditure of money from the fund.
- (8) The grant application and review process shall describe:
 - (a) the requirements to complete the grant application;
 - (b) requirements for receiving funding;
 - (c) criteria for the approval of a grant application; and
 - (d) support offered by the commission to complete a grant application.
- (9) Upon receipt of a grant application, the commission shall:
 - (a) review the grant application for completeness;
 - (b) make a determination regarding the grant application;
 - (c) inform the grant applicant of the commission's determination regarding the grant application; and
 - (d) if approved, award grants from the fund to the grant applicant.
- (10) Before November 30 of each year, the commission shall provide an electronic report to the Law Enforcement and Criminal Justice Interim Committee regarding the status of the fund and expenditures made from the fund.

Amended by Chapter 4, 2021 Special Session 2

63M-7-216 Prosecutorial data collection -- Policy transparency.

- (1) As used in this section:
 - (a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
 - (b)
 - (i) "Criminal case" means a case where an offender is charged with an offense for which a mandatory court appearance is required under the Uniform Bail Schedule.
 - (ii) "Criminal case" does not mean a case for criminal non-support under Section 76-7-201 or any proceeding involving collection or payment of child support, medical support, or child care expenses by or on behalf of the Office of Recovery Services under Section 62A-11-107 or 76-7-202.
 - (c) "Offense tracking number" means a distinct number applied to each criminal offense by the Bureau of Criminal Identification.
 - (d) "Pre-filing diversion" means an agreement between a prosecutor and an individual prior to being charged with a crime, before an information or indictment is filed, in which the individual is diverted from the traditional criminal justice system into a program of supervision and supportive services in the community.
 - (e) "Post-filing diversion" is as described in Section 77-2-5.

- (f) "Prosecutorial agency" means the Office of the Attorney General and any city, county, or district attorney acting as a public prosecutor.
- (g) "Publish" means to make aggregated data available to the general public.
- (2) Beginning July 1, 2021, all prosecutorial agencies within the state shall submit the following data with regards to each criminal case referred to it from a law enforcement agency to the commission for compilation and analysis:
 - (a) the defendant's:
 - (i) full name;
 - (ii) offense tracking number;
 - (iii) date of birth; and
 - (iv) zip code;
 - (b) referring agency;
 - (c) whether the prosecutorial agency filed charges, declined charges, initiated a pre-filing diversion, or asked the referring agency for additional information;
 - (d) if charges were filed, the case number and the court in which the charges were filed;
 - (e) all charges brought against the defendant;
 - (f) whether bail was requested and, if so, the requested amount;
 - (g) the date of initial discovery disclosure;
 - (h) whether post-filing diversion was offered and, if so, whether it was entered;
 - (i) if post-filing diversion or other plea agreement was accepted, the date entered by the court; and
 - (j) the date of conviction, acquittal, plea agreement, dismissal, or other disposition of the case.
- (3)
 - (a) The information required by Subsection (2), including information that was missing or incomplete at the time of an earlier submission but is presently available, shall be submitted within 90 days of the last day of March, June, September, and December of each year for the previous 90-day period in the form and manner selected by the commission.
 - (b) If the last day of the month is a Saturday, Sunday, or state holiday, the information shall be submitted on the next working day.
- (4) The prosecutorial agency shall maintain a record of all information collected and transmitted to the commission for 10 years.
- (5) The commission shall include in the plan required by Subsection 63M-7-204(1)(k) an analysis of the data received, comparing and contrasting the practices and trends among and between prosecutorial agencies in the state. The Law Enforcement and Criminal Justice Interim Committee may request an in-depth analysis of the data received annually. Any request shall be in writing and specify which data points the report shall focus on.
- (6) The commission may provide assistance to prosecutorial agencies in setting up a method of collecting and reporting data required by this section.
- (7) Beginning January 1, 2021, all prosecutorial agencies shall publish specific office policies. If the agency does not maintain a policy on a topic in this subsection, the agency shall affirmatively disclose that fact. Policies shall be published online on the following topics:
 - (a) screening and filing criminal charges;
 - (b) plea bargains;
 - (c) sentencing recommendations;
 - (d) discovery practices;
 - (e) prosecution of juveniles, including whether to prosecute a juvenile as an adult;
 - (f) collection of fines and fees;
 - (g) criminal and civil asset forfeiture practices;

- (h) services available to victims of crime, both internal to the prosecutorial office and by referral to outside agencies;
 - (i) diversion programs;
 - (j) restorative justice programs; and
- (8)
- (a) A prosecutorial agency not in compliance with this section by July 1, 2022, in accordance with the commission's guidelines may not receive grants or other funding intended to assist with bringing the agency into compliance with this section. In addition, any funds received for the purpose of bringing the agency into compliance with this section shall be returned to the source of the funding.
 - (b) Only funding received from the commission by a prosecutorial agency specifically intended to assist the agency with compliance with this section may be recalled.

Enacted by Chapter 200, 2020 General Session

63M-7-218 State grant requirements.

Beginning July 1, 2023, the commission may not award any grant of state funds to any entity subject to, and not in compliance with, the reporting requirements in Subsections 63A-16-1002(5) (a) through (o).

Enacted by Chapter 390, 2022 General Session

Amended by Chapter 390, 2022 General Session, (Coordination Clause)

Part 3
Utah Substance Use and Mental Health Advisory Council

63M-7-301 Definitions -- Creation of council -- Membership -- Terms.

- (1)
- (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.
 - (b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.
- (2) The council shall be comprised of the following voting members:
- (a) the attorney general or the attorney general's designee;
 - (b) one elected county official appointed by the Utah Association of Counties;
 - (c) the commissioner of public safety or the commissioner's designee;
 - (d) the director of the Division of Integrated Healthcare or the director's designee;
 - (e) the state superintendent of public instruction or the superintendent's designee;
 - (f) the executive director of the Department of Health and Human Services or the executive director's designee;
 - (g) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;
 - (h) the executive director of the Department of Corrections or the executive director's designee;
 - (i) the director of the Division of Juvenile Justice Services or the director's designee;
 - (j) the director of the Division of Child and Family Services or the director's designee;
 - (k) the chair of the Board of Pardons and Parole or the chair's designee;

- (l) the director of the Office of Multicultural Affairs or the director's designee;
- (m) the director of the Division of Indian Affairs or the director's designee;
- (n) the state court administrator or the state court administrator's designee;
- (o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;
- (p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;
- (q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;
- (r) one prosecutor appointed by the Statewide Association of Prosecutors;
- (s) the chair or co-chair of each committee established by the council;
- (t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection 62A-15-1101(2);
- (u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;
- (v) the following members appointed by the governor to serve four-year terms:
 - (i) one resident of the state who has been personally affected by a substance use or mental health disorder; and
 - (ii) one citizen representative; and
- (w) in addition to the voting members described in Subsections (2)(a) through (v), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (v) to serve four-year terms:
 - (i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;
 - (ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;
 - (iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;
 - (iv) one resident of the state who represents prevention professionals;
 - (v) one resident of the state who represents treatment professionals;
 - (vi) one resident of the state who represents the physical health care field;
 - (vii) one resident of the state who is a criminal defense attorney;
 - (viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;
 - (ix) one resident of the state who represents local law enforcement agencies;
 - (x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and
 - (xi) one resident of the state who is certified by the Division of Integrated Healthcare as a peer support specialist as described in Subsection 62A-15-103(2)(h).
- (3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the council.

Amended by Chapter 255, 2022 General Session

63M-7-302 Chair -- Vacancies -- Quorum -- Expenses.

- (1) The Utah Substance Use and Mental Health Advisory Council shall annually select one of its members to serve as chair and one of its members to serve as vice chair.

- (2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the position was originally filled.
- (3) A majority of the members of the council constitutes a quorum.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (5) The council may establish committees as needed to assist in accomplishing its duties under Section 63M-7-303.

Amended by Chapter 246, 2019 General Session

63M-7-303 Duties of council.

- (1) The Utah Substance Use and Mental Health Advisory Council shall:
 - (a) provide leadership and generate unity for Utah's ongoing efforts to reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and evidence-based prevention, treatment, and justice strategy;
 - (b) recommend and coordinate the creation, dissemination, and implementation of statewide policies to address substance use and mental health disorders;
 - (c) facilitate planning for a balanced continuum of substance use and mental health disorder prevention, treatment, and justice services;
 - (d) promote collaboration and mutually beneficial public and private partnerships;
 - (e) coordinate recommendations made by any committee created under Section 63M-7-302;
 - (f) analyze and provide an objective assessment of all proposed legislation concerning substance use, mental health, and related issues;
 - (g) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d), as provided in Section 63M-7-305;
 - (h) comply with Sections 32B-2-306 and 62A-15-403; and
 - (i) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section 62A-15-1101.
- (2) The council shall meet quarterly or more frequently as determined necessary by the chair.
- (3) The council shall report the council's recommendations annually to the commission, governor, the Legislature, and the Judicial Council.

Amended by Chapter 211, 2022 General Session

63M-7-304 Chair -- Vacancies -- Quorum -- Expenses.

- (1) The members of each committee established by the council shall annually select a chair or co-chairs from among the members of the committee.
- (2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the position was originally filled.
- (3) A majority of the members of a committee constitutes a quorum for the transaction of business by the committee.
- (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.

Amended by Chapter 39, 2010 General Session

Amended by Chapter 286, 2010 General Session

63M-7-305 Drug-Related Offenses Reform Act -- Coordination.

(1) As used in this section:

(a) "Council" means the Utah Substance Use and Mental Health Advisory Council.

(b) "Drug-Related Offenses Reform Act" and "act" mean the screening, assessment, substance use disorder treatment, and supervision provided to convicted persons under Subsection 77-18-104(2) to:

(i) determine a person's specific substance use disorder treatment needs as early as possible in the judicial process;

(ii) expand treatment resources for persons in the community;

(iii) integrate a person's treatment with supervision by the Department of Corrections; and

(iv) reduce the incidence of substance use disorders and related criminal conduct.

(c) "Substance abuse authority" means the same as that term is defined in Section 17-43-201.

(2) The council shall provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act.

(3) The council shall develop an implementation plan for the Drug-Related Offenses Reform Act. The plan shall:

(a) identify local substance abuse authority areas where the act will be implemented, in cooperation with the Division of Substance Abuse and Mental Health, the Department of Corrections, and the local substance abuse authorities;

(b) include guidelines for local substance abuse authorities and the Utah Department of Corrections on how funds appropriated under the act should be used, including eligibility requirements for convicted persons who participate in services funded by the act, that are consistent with the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism; and

(c) require that treatment plans under the act are appropriate for persons involved in the criminal justice system.

Amended by Chapter 260, 2021 General Session

63M-7-306 Staffing.

The Commission on Criminal and Juvenile Justice shall provide staff to the council and any committee established by the council.

Amended by Chapter 39, 2010 General Session

**Part 4
Sentencing Commission**

63M-7-401 Creation -- Members -- Appointment -- Qualifications.

- (1) There is created a state commission to be known as the Sentencing Commission composed of 28 members. The commission shall develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and elect its officers.
- (2) The commission's members shall be:
 - (a) two members of the House of Representatives, appointed by the speaker of the House and not of the same political party;
 - (b) two members of the Senate, appointed by the president of the Senate and not of the same political party;
 - (c) the executive director of the Department of Corrections or a designee appointed by the executive director;
 - (d) the director of the Division of Juvenile Justice Services or a designee appointed by the director;
 - (e) the executive director of the Commission on Criminal and Juvenile Justice or a designee appointed by the executive director;
 - (f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;
 - (g) the chair of the Youth Parole Authority or a designee appointed by the chair;
 - (h) two trial judges and an appellate judge appointed by the chair of the Judicial Council;
 - (i) two juvenile court judges designated by the chair of the Judicial Council;
 - (j) an attorney in private practice who is a member of the Utah State Bar, experienced in criminal defense, and appointed by the Utah Bar Commission;
 - (k) an attorney who is a member of the Utah State Bar, experienced in the defense of minors in juvenile court, and appointed by the Utah Bar Commission;
 - (l) the director of Salt Lake Legal Defenders or a designee appointed by the director;
 - (m) the attorney general or a designee appointed by the attorney general;
 - (n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;
 - (o) a juvenile court prosecutor appointed by the Statewide Association of Public Attorneys;
 - (p) a representative of the Utah Sheriff's Association appointed by the governor;
 - (q) a chief of police appointed by the governor;
 - (r) a licensed professional appointed by the governor who assists in the rehabilitation of adult offenders;
 - (s) a licensed professional appointed by the governor who assists in the rehabilitation of juvenile offenders;
 - (t) two members from the public appointed by the governor who exhibit sensitivity to the concerns of victims of crime and the ethnic composition of the population;
 - (u) one member from the public at large appointed by the governor; and
 - (v) a representative of an organization that specializes in civil rights or civil liberties on behalf of incarcerated individuals appointed by the governor.

Amended by Chapter 173, 2021 General Session

63M-7-402 Terms of members -- Vacancies -- Reappointment.

- (1)
 - (a) Except as required by Subsection (1)(b), as terms of current commission members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (1)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms

of commission members are staggered so that approximately half of the commission is appointed every two years.

- (2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

Amended by Chapter 154, 2020 General Session

63M-7-403 Vacancies.

If a commission member no longer holds a qualifying position, resigns, or is unable to serve, the vacancy shall be filled by the appointing authority.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-404 Purpose -- Duties.

- (1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:
 - (a) the sentencing and release of juvenile and adult offenders in order to:
 - (i) respond to public comment;
 - (ii) relate sentencing practices and correctional resources;
 - (iii) increase equity in criminal sentencing;
 - (iv) better define responsibility in criminal sentencing; and
 - (v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority;
 - (b) the length of supervision of adult offenders on probation or parole in order to:
 - (i) increase equity in criminal supervision lengths;
 - (ii) respond to public comment;
 - (iii) relate the length of supervision to an offender's progress;
 - (iv) take into account an offender's risk of offending again;
 - (v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and
 - (vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole;
 - (c) appropriate, evidence-based probation and parole supervision policies and services that assist individuals in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:
 - (i) treatment and intervention completion determinations based on individualized case action plans;
 - (ii) measured and consistent processes for addressing violations of conditions of supervision;
 - (iii) processes that include using positive reinforcement to recognize an individual's progress in supervision;
 - (iv) engaging with social services agencies and other stakeholders who provide services that meet offender needs; and
 - (v) identifying community violations that may not warrant revocation of probation or parole.
- (2)
 - (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

- (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.
- (3)
 - (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.
 - (b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.
- (4)
 - (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:
 - (i) who have violated one or more conditions of probation; and
 - (ii) whose probation has been revoked by the court.
 - (b) For a situation described in Subsection (4)(a), the guidelines shall recommend that a court consider:
 - (i) the seriousness of any violation of the condition of probation;
 - (ii) the probationer's conduct while on probation; and
 - (iii) the probationer's criminal history.
- (5)
 - (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:
 - (i) who have violated a condition of parole; and
 - (ii) whose parole has been revoked by the Board of Pardons and Parole.
 - (b) For a situation described in Subsection (5)(a), the guidelines shall recommend that the Board of Pardons and Parole consider:
 - (i) the seriousness of any violation of the condition of parole;
 - (ii) the individual's conduct while on parole; and
 - (iii) the individual's criminal history.
- (6) The commission shall establish graduated and evidence-based processes to facilitate the prompt and effective response to an individual's progress in or violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections, or other supervision services provider, to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration, including:
 - (a) responses to be used when an individual violates a condition of probation or parole;
 - (b) responses to recognize positive behavior and progress related to an individual's case action plan;
 - (c) when a violation of a condition of probation or parole should be reported to the court or the Board of Pardons and Parole; and
 - (d) a range of sanctions that may not exceed a period of incarceration of more than:
 - (i) three consecutive days; and
 - (ii) a total of five days in a period of 30 days.
- (7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:
 - (a) compliance with the terms of probation or parole; and
 - (b) positive conduct that exceeds those terms.
- (8)

- (a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:
 - (i) nonjudicially adjusted;
 - (ii) placed on diversion;
 - (iii) placed on probation;
 - (iv) placed on community supervision;
 - (v) placed in an out-of-home placement; or
 - (vi) placed in a secure care facility.
- (b) In establishing guidelines under this Subsection (8), the commission shall consider:
 - (i) the seriousness of the negative and positive behavior;
 - (ii) the juvenile's conduct post-adjudication; and
 - (iii) the delinquency history of the juvenile.
- (c) The guidelines shall include:
 - (i) responses that are swift and certain;
 - (ii) a continuum of community-based options for juveniles living at home;
 - (iii) responses that target the individual's criminogenic risk and needs; and
 - (iv) incentives for compliance, including earned discharge credits.
- (9) The commission shall establish and maintain supervision length guidelines in accordance with this section.
- (10)
 - (a) The commission shall create sentencing guidelines and supervision length guidelines for the following financial and property offenses for which a pecuniary loss to a victim may exceed \$50,000:
 - (i) securities fraud, Sections 61-1-1 and 61-1-21;
 - (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment adviser representative, Sections 61-1-3 and 61-1-21;
 - (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
 - (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1, Assault and Related Offenses;
 - (v) arson, Section 76-6-102;
 - (vi) burglary, Section 76-6-202;
 - (vii) theft, Section 76-6-412;
 - (viii) forgery, Section 76-6-501;
 - (ix) unlawful dealing of property by a fiduciary, Section 76-6-513;
 - (x) fraudulent insurance act, Section 76-6-521;
 - (xi) computer crimes, Section 76-6-703;
 - (xii) mortgage fraud, Sections 76-6-1203 and 76-6-1204;
 - (xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;
 - (xiv) communications fraud, Section 76-10-1801;
 - (xv) money laundering, Section 76-10-1904; and
 - (xvi) other offenses in the discretion of the commission.
 - (b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix with proportionate escalating sanctions based on the amount of a victim's loss.
 - (c) On or before August 1, 2022, the commission shall publish for public comment the guidelines described in Subsection (10)(a).
- (11)

- (a) Before January 1, 2023, the commission shall study the offenses of sexual exploitation of a minor and aggravated sexual exploitation of a minor under Sections 76-5b-201 and 76-5b-201.1.
- (b) The commission shall update sentencing and release guidelines and juvenile disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection (11)(a), including the application of aggravating and mitigating factors specific to the offense.

Amended by Chapter 115, 2022 General Session

Amended by Chapter 185, 2022 General Session

Amended by Chapter 328, 2022 General Session

63M-7-405 Compensation of members -- Reports to the Legislature, the courts, and the governor -- Collateral consequences guide.

- (1)
 - (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
 - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (2)
 - (a) The commission shall submit to the Legislature, the courts, and the governor at least 60 days before the annual general session of the Legislature the commission's reports and recommendations for sentencing guidelines and supervision length guidelines and amendments.
 - (b) The commission shall use existing data and resources from state criminal justice agencies.
 - (c) The commission may employ professional assistance and other staff members as it considers necessary or desirable.
- (3) The commission shall assist and respond to questions from all three branches of government, but is part of the Commission on Criminal and Juvenile Justice for coordination on criminal and juvenile justice issues, budget, and administrative support.
- (4)
 - (a) As used in this Subsection (4), "master offense list" means a document that contains all offenses that exist in statute and each offense's associated penalty.
 - (b) No later than May 1, 2017, the commission shall create a master offense list.
 - (c) No later than June 30 of each calendar year, the commission shall:
 - (i) after the last day of the general legislative session, update the master offense list; and
 - (ii) present the updated master offense list to the Law Enforcement and Criminal Justice Interim Committee.
- (5) As used in Subsection (6):
 - (a) "Adjudication" means an adjudication, as that term is defined in Section 80-1-102, of an offense under Section 80-6-701.
 - (b) "Civil disability" means a legal right or privilege that is revoked as a result of the individual's conviction or adjudication.
 - (c) "Collateral consequence" means:
 - (i) a discretionary disqualification; or
 - (ii) a mandatory sanction.

- (d) "Conviction" means the same as that term is defined in Section 77-38b-102.
 - (e) "Disadvantage" means any legal or regulatory restriction that:
 - (i) is imposed on an individual as a result of the individual's conviction or adjudication; and
 - (ii) is not a civil disability or a legal penalty.
 - (f) "Discretionary disqualification" means a penalty, a civil disability, or a disadvantage that a court in a civil proceeding, or a federal, state, or local government agency or official, may impose on an individual as a result of the individual's adjudication or conviction for an offense regardless of whether the penalty, the civil disability, or the disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.
 - (g) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:
 - (i) is imposed on an individual as a result of the individual's adjudication or conviction for an offense regardless of whether the penalty, the civil disability, or the disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage; and
 - (ii) is not included in the judgment for the adjudication or conviction.
 - (h) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under the laws of this state, another state, or the United States.
 - (i) "Penalty" means an administrative, civil, or criminal sanction imposed to punish the individual for the individual's conviction or adjudication.
- (6)
- (a) The commission shall:
 - (i) identify any provision of state law, including the Utah Constitution, and any administrative rule that imposes a collateral consequence;
 - (ii) prepare and compile a guide that contains all the provisions identified in Subsection (6)(a)(i) on or before October 1, 2022; and
 - (iii) update the guide described in Subsection (6)(a)(ii) annually.
 - (b) The commission shall state in the guide described in Subsection (6)(a) that:
 - (i) the guide has not been enacted into law;
 - (ii) the guide does not have the force of law;
 - (iii) the guide is for informational purposes only;
 - (iv) an error or omission in the guide, or in any reference in the guide:
 - (A) has no effect on a plea, an adjudication, a conviction, a sentence, or a disposition; and
 - (B) does not prevent a collateral consequence from being imposed;
 - (v) any laws or regulations for a county, a municipality, another state, or the United States, imposing a collateral consequence are not included in the guide; and
 - (vi) the guide does not include any provision of state law or any administrative rule imposing a collateral consequence that is enacted on or after March 31 of each year.
 - (c) The commission shall:
 - (i) place the statements described in Subsection (6)(b) in a prominent place at the beginning of the guide; and
 - (ii) make the guide available to the public on the commission's website.
 - (d) The commission shall:
 - (i) present the updated guide described in Subsection (6)(a)(iii) annually to the Law Enforcement and Criminal Justice Interim Committee; and
 - (ii) identify and recommend legislation on collateral consequences to the Law Enforcement and Criminal Justice Interim Committee.

Amended by Chapter 274, 2022 General Session

63M-7-406 Publication of reports.

The commission shall also be authorized to prepare, publish, and distribute from time to time reports of its studies, recommendations, and statements.

Renumbered and Amended by Chapter 382, 2008 General Session

**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 part:

- (1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.
- (2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.
- (3) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.
- (4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.
- (5) "Claimant" means any of the following claiming reparations under this part:
 - (a) a victim;
 - (b) a dependent of a deceased victim; or
 - (c) an individual or representative who files a reparations claim on behalf of a victim.
- (6) "Child" means an unemancipated individual who is under 18 years old.
- (7) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the victim or claimant has received, or that is readily available to the victim from:
 - (a) the offender;
 - (b) the insurance of the offender or the victim;
 - (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.

- (8) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.
- (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 individual 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:
 - (A) intended to cause bodily injury or death;
 - (B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or
 - (C) chargeable as an offense for driving under the influence of alcohol or drugs.
- (b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.
- (10)
- (a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.
- (b) "Dependent" 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 office.
- (14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:
- (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)
- (a) "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.
- (b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.
- (c) "Economic loss" does not include noneconomic detriment.
- (16) "Elderly victim" means an individual who is 60 years old or older and who is a victim.
- (17) "Fraudulent claim" means a filed reparations 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.

- (18) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.
- (19)
- (a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.
- (b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection (19)(a).
- (20) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
- (21)
- (a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.
- (b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.
- (22) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (23) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (24) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.
- (25) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.
- (26) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.
- (27) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.
- (28) "Offense" means a violation of Title 76, Utah Criminal Code.
- (29) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.
- (30) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.
- (31) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.
- (32) "Reparations claim" means a claimant's request or application made to the office for a reparations award.
- (33)
- (a) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part.
- (b) "Reparations officer" includes the director when the director is acting as a reparations officer.
- (34) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.
- (35)
- (a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.
- (b) "Representative" does not include a service provider or collateral source.

- (36) "Restitution" means the same as that term is defined in Section 77-38b-102.
- (37) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (38) "Service provider" means an individual or agency who provides a service to a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.
- (39) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.
- (40) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.
- (41) "Strangulation" means any act involving the use of unlawful force or violence that:
 - (a) impedes breathing or the circulation of blood; and
 - (b) is likely to produce a loss of consciousness by:
 - (i) applying pressure to the neck or throat of an individual; or
 - (ii) obstructing the nose, mouth, or airway of an individual.
- (42) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.
- (43)
 - (a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:
 - (i) criminally injurious conduct; or
 - (ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.
 - (b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (44) "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 148, 2022 General Session

Amended by Chapter 185, 2022 General Session

Amended by Chapter 430, 2022 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 an order for restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, or under any other provision of law.
- (2) The court may not reduce an order for restitution based on a reparations award.
- (3)
 - (a)
 - (i) If a victim receives a reparations award and the office is assigned the victim's claim for restitution, or a portion of the victim's claim for restitution, under Section 63M-7-519, 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.
 - (ii) The office may provide a notice of restitution to the victim or victim's representative before or at sentencing.

- (iii) The office's failure to provide notice under Subsection (3)(a)(i) or (ii) does not invalidate the imposition of the judgment or an order for restitution if the defendant is given the opportunity to object and be heard as provided in this part.
- (b)
 - (i) Any objection by the defendant to the imposition or amount of restitution under Subsection (3)(a)(i) shall be:
 - (A) made at the time of sentencing; or
 - (B) made in writing within 20 days after the day on which the defendant receives the notice described in Subsection (3)(a) and filed with the court and a copy mailed to the office.
 - (ii) Upon an objection, the court shall allow the defendant a hearing on the issue.
 - (iii) After a hearing under Subsection (3)(b)(ii), the court shall:
 - (A) enter an order for restitution in accordance with Section 77-38b-205; and
 - (B) identify the office as an assignee for the order for restitution.
 - (iv) Subject to the right of the defendant to object, the amount of restitution sought by the office may be updated and the office identified as an assignee of an order for restitution in accordance with the time periods established under Subsection 77-38b-205(5).
- (4) If no objection is made or filed by the defendant under Subsection (3), the court shall upon conviction and sentencing:
 - (a) enter an order for restitution in accordance with Section 77-38b-205; and
 - (b) identify the office as an assignee for the order for restitution.
- (5)
 - (a) If the notice of restitution is filed after sentencing but during the term of probation or parole, the court shall:
 - (i) modify any order for restitution to include expenses paid by the office on behalf of the victim in accordance with Subsection 77-38b-205(5); and
 - (ii) identify the office as an assignee of the order for restitution.
 - (b) If an order for restitution has not been entered, the court shall:
 - (i) enter an order for restitution in accordance with Section 77-38b-205; and
 - (ii) identify the office as an assignee of the order for restitution.

Amended by Chapter 260, 2021 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 advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
 - (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.
- (6) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Amended by Chapter 352, 2020 General Session

Amended by Chapter 373, 2020 General Session

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

- (1) The board and the office 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 149, 2020 General Session

63M-7-506 Functions of board.

- (1) The board shall:
 - (a) adopt a description of the office and prescribe the general operation of the board;
 - (b) prescribe policy for the office;
 - (c) adopt rules to implement and administer this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may include setting of ceilings on reparations, defining of terms not specifically stated in this part, and establishing of rules governing attorney fees;
 - (d) prescribe forms for applications for reparations;
 - (e) review all reparations awards made by the reparations staff, although the board may not reverse or modify reparations 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 fund to victims of criminally injurious conduct for reparations claims;
 - (i) allocate money available to other victim services as provided by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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 149, 2020 General Session

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

- (1) 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 part.
- (2) The director shall:
- (a) be an experienced administrator with a background in at least one of the following fields:
 - (i) social work;
 - (ii) psychology;
 - (iii) criminal justice;
 - (iv) law; or
 - (v) another field related to the fields described in Subsections (2)(a)(i) through (iv);
 - (b) demonstrate an understanding of the needs of crime victims and of services to victims; and
 - (c) devote the director's time and capacity to the director's duties.
- (3) In addition to the requirements under Subsection (2), the director shall:
- (a) hire staff, including reparations and assistance officers, as necessary;
 - (b) act when necessary as a reparations officer in deciding an initial reparations claim;
 - (c) possess the same investigation and decision-making authority as the reparations officers;
 - (d) hear appeals from the decisions of the reparations officers, unless the director acted as a reparations officer on the initial reparations claim;
 - (e) serve as a liaison between the office and the board;
 - (f) serve as the public relations representative of the office;
 - (g) 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;
 - (h) cooperate with the state treasurer and the state Division of Finance in causing the funds in the fund to be invested and the fund's investments sold or exchanged and the proceeds and income collected;
 - (i) 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;
 - (j) obtain and utilize the services of other governmental agencies upon request; and

- (k) act in any other capacity or perform any other acts necessary for the office or board to successfully fulfill the office's or board's statutory duties and objectives.

Amended by Chapter 149, 2020 General Session

63M-7-508 Reparations officers.

The reparations officers shall in addition to any assignments made by the director:

- (1) hear and determine all matters relating to a reparations claim and reinvestigate or reopen a reparations claim 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 individual 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 part and the rules of the board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (6) take notice of judicially recognized facts and general, technical, and scientific facts within the reparations officers' 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 reparations 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 State 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 office, 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 part and the procedure for applying for reparation.

Amended by Chapter 149, 2020 General Session

63M-7-509 Grounds for eligibility.

- (1) A victim is eligible for a reparations award under this part if:
 - (a) the claimant is:
 - (i) a victim of criminally injurious conduct;
 - (ii) a dependent of a deceased victim of criminally injurious conduct; or
 - (iii) a representative acting on behalf of one of the above;
 - (b)
 - (i) the criminally injurious conduct occurred in Utah; or

- (ii) the victim is a Utah resident who suffers injury or death as a result of criminally injurious conduct inflicted in a state, territory, or country that does not provide a crime victims' compensation program;
 - (c) the application is made in writing in a form that conforms substantially to that prescribed by the board;
 - (d) the criminally injurious conduct is reported to a law enforcement officer, in the law enforcement officer's capacity as a law enforcement officer, or another federal or state investigative agency;
 - (e) the claimant or victim cooperates with the appropriate law enforcement agencies and prosecuting attorneys in efforts to apprehend or convict the perpetrator of the alleged offense; and
 - (f) the criminally injurious conduct occurred after December 31, 1986.
- (2) A reparations award may be made to a victim regardless of whether any individual is arrested, prosecuted, or convicted of the criminally injurious conduct giving rise to a reparations claim.
- (3)
- (a) Notwithstanding the requirements of Subsections (1)(d) and (e), a victim of sexual assault is not required to report the sexual assault to a law enforcement officer or another federal or state investigative agency or cooperate with the appropriate law enforcement agencies and prosecuting attorneys to be eligible for a reparations award under this section if:
 - (i) the victim seeks assistance from an advocacy services provider, a criminal justice system victim advocate, or a nongovernment organization victim advocate; and
 - (ii) the advocacy services provider, the criminal justice system victim advocate, or the nongovernment organization victim advocate completes a questionnaire, provided by the office, regarding the sexual assault.
 - (b) Notwithstanding the requirement of Subsection (1)(e), a victim who has suffered strangulation in the course of interpersonal violence is not required to cooperate with the appropriate law enforcement agencies and prosecuting attorneys to be eligible for a reparations award under this section if the victim:
 - (i) reports the strangulation to a law enforcement officer or another federal or state investigative agency after the strangulation occurs; or
 - (ii) seeks medical care for the strangulation immediately after the strangulation occurs.

Amended by Chapter 148, 2022 General Session

63M-7-510 Ineligible individuals -- Fraudulent reparations claims -- Penalties.

- (1) The following individuals are not eligible to receive a reparations award:
- (a) an individual who does not meet all of the provisions set forth in Section 63M-7-509;
 - (b) the offender;
 - (c) an accomplice of the offender;
 - (d) an individual whose receipt of a reparations award would unjustly benefit the offender, accomplice, or another individual 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) a convicted offender serving a sentence of imprisonment in any prison or jail or residing in any other correctional facility;
 - (g) an individual who is on probation or parole if the circumstances surrounding the offense of which the individual is a victim is a violation of the individual's probation or parole;

- (h) an individual whose injuries are the result of criminally injurious conduct that occurred in a prison, jail, or another correctional facility while the individual was incarcerated; and
- (i) an individual who:
 - (i) submits a fraudulent claim; or
 - (ii) misrepresents a material fact in requesting a reparations award.
- (2)
 - (a) An individual may not knowingly:
 - (i) submit a fraudulent claim; or
 - (ii) misrepresent a material fact in requesting a reparations award.
 - (b) A violation of Subsection (2)(a) is:
 - (i) a class B misdemeanor if:
 - (A) the individual who violates Subsection (2)(a) does not receive a reparations award; or
 - (B) the value of the reparations award received is less than \$500;
 - (ii) a class A misdemeanor if the value of the reparations award received is or exceeds \$500 but is less than \$1,500;
 - (iii) a third degree felony if the value of the reparations award received is or exceeds \$1,500 but is less than \$5,000; and
 - (iv) a second degree felony if the value of the reparations award received is or exceeds \$5,000.
- (3) The state attorney general may prosecute violations under this section or may make arrangements with county or city attorneys for the prosecution of violations under this section when the attorney general cannot conveniently prosecute.
- (4)
 - (a) A claimant who is not eligible to receive a reparations award under Subsection (1) but receives a reparations award shall reimburse the fund for the amount of the reparations award.
 - (b) The office may bring a civil action against a victim who does not reimburse the fund for the amount of the reparations award in accordance with Subsection (4)(a).

Amended by Chapter 149, 2020 General Session

63M-7-511 Compensable losses and amounts.

A reparations award under this part may be made if:

- (1) the reparations officer finds the reparations claim satisfies the requirements for the reparations award under the provisions of this part and the rules of the board;
- (2) money is available in the fund;
- (3) the individual for whom the reparations award is to be paid is otherwise eligible under this part; and
- (4) the reparations 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 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (c) mental health counseling that:
 - (i) is set forth in a mental health treatment plan that is approved before any payment is made by a reparations officer; and
 - (ii) qualifies within any further rules made by the board in accordance with 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 individual'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, to continue gainful employment at a rate per child per week as determined under rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (f) funeral and burial expenses for death caused by the criminally injurious conduct, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (g) loss of support to a dependent 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 individual'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 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (i) medical examinations, subject to rules made by the board in accordance with 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 149, 2020 General Session

63M-7-511.5 Limitation of reparations awards.

- (1)
 - (a) Except as provided in Subsection (1)(b), a reparations award may not exceed \$25,000.
 - (b) Notwithstanding Subsection (1)(a), a reparations award for medical expenses resulting from serious bodily injury or substantial bodily injury may not exceed \$50,000.
- (2)
 - (a) A reparations award under Subsection (1) includes any reparations award for a secondary victim.
 - (b) Unless otherwise requested by the claimant, the office shall pay a reparations award for the victim before a reparations award for a secondary victim.
 - (c) The reparations officer shall determine the priority of payment among multiple secondary victims on a single reparations claim.

Amended by Chapter 149, 2020 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 reparations claim unreasonable because of the misconduct of the claimant; 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 a reparations award as a result of a victim's death, the reparations officer shall apportion the reparations award among the dependents.

Amended by Chapter 149, 2020 General Session

63M-7-513 Collateral sources.

- (1)
 - (a) An order for restitution may not be considered readily available as a collateral source.
 - (b) Receipt of a reparations award under this part is considered an assignment of the victim's rights to restitution from the offender.
- (2)
 - (a) The victim may not discharge a claim against an individual or entity without the office's written permission.
 - (b) The victim shall fully cooperate with the office in pursuing the office's right of reimbursement, including providing the office with any evidence in the victim's possession.
- (3) The office's right of reimbursement applies regardless of whether the victim is fully compensated for the victim's losses.
- (4) Notwithstanding Subsection 63M-7-512(1)(a), a victim of a sexual offense who requests testing of the victim's self may be reimbursed for the costs of the HIV test only as provided in Subsection 53-10-803(4).

Amended by Chapter 430, 2022 General Session

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

- (1)
 - (a) The office shall immediately notify the claimant in writing of a reparations award and shall forward to the Division of Finance a certified copy of the reparations award and a warrant request for the amount of the reparations award.
 - (b) The Division of Finance shall pay the claimant the amount submitted to the division, out of the fund.
 - (c) If money in the fund is temporarily depleted, the office shall place claimants approved to receive a reparations award on a waiting list and provide the reparations awards as funds are available in the order in which the reparations awards are approved.
- (2) The reparations officer may suspend the proceedings pending disposition of a criminal prosecution that is commenced or is imminent.

Amended by Chapter 149, 2020 General Session

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

- (1) Rules for procedures for contested determinations by a reparations officer shall be adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) The office is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 149, 2020 General Session

63M-7-516 Waiver of privilege.

- (1)
 - (a) A victim who is a claimant waives 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.

- (b) The waiver described in Subsection (1)(a) applies only to reparations officers, the director, the board, and legal counsel.
- (2) A 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)
 - (a) The reparations officer hearing a reparations claim or an appeal from a reparations claim shall make available to the claimant a copy of the report.
 - (b) 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 149, 2020 General Session

63M-7-517 Additional testing.

- (1) If the mental, physical, or emotional condition of a victim is material to a reparations claim, the reparations officer, director, or chair of the board who hears the reparations 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) The court may order an additional examination for good cause shown and shall provide notice to the individual to be examined and the individual'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.

Amended by Chapter 149, 2020 General Session

63M-7-518 Failure to comply.

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

Amended by Chapter 149, 2020 General Session

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

- (1)
 - (a) By accepting a reparations award, the victim:
 - (i) automatically assigns to the office any claim the victim may have relating to criminally injurious conduct in the reparations claim; and
 - (ii) is required to reimburse the office if the victim recovers any money relating to the criminally injurious conduct.
 - (b) The office's right of assignment and reimbursement under Subsection (1)(a) is limited to the lesser of:
 - (i) the amount paid by the office; or
 - (ii) the amount recovered by the victim from the third party.
 - (c) The office may be reimbursed under Subsection (1)(a) regardless of whether the office exercises the office's right of assignment under Subsection (1)(a).

- (2) The board, with the concurrence of the director, may reduce the office's right of reimbursement if the board determines that:
 - (a) the reduction will benefit the fund; or
 - (b) the victim has ongoing expenses related to the offense upon which the reparations claim is based and the benefit to the victim of reducing the office's right of reimbursement exceeds the benefit to the office of receiving full reimbursement.
- (3) The office reserves the right to make a claim for reimbursement on behalf of the victim and the victim may not impair the office's claim or the office's right of reimbursement.

Amended by Chapter 149, 2020 General Session

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

- (1)
 - (a) Except as provided in Subsection (1)(b), a reparations officer may provide for the payment of a reparations award in a lump sum or in installments.
 - (b)
 - (i) The reparations officer shall pay the part of a reparations award equal to the amount of economic loss accrued to the date of the reparations award in a lump sum.
 - (ii) A reparations officer may not pay allowable expense that would accrue after an initial reparations award is made in a lump sum.
 - (iii) Except as provided in Subsection (2), a reparations officer shall award the part of a reparations award that may not be paid in a lump sum under this Subsection (1)(b) 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 reparations officer that the reparations award in a lump sum will promote the interests of the claimant.
- (3)
 - (a) A reparations 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.
 - (b) The reparations officer may reconsider and modify a reparations 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) A reparations award is not subject to execution, attachment, or garnishment, except that a reparations 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 reparations award.
- (5) An assignment or agreement to assign a reparations award for loss accruing in the future is unenforceable, except:
 - (a) an assignment of a reparations award of reparations for work loss to secure payment of alimony, maintenance, or child support;
 - (b) an assignment of a reparations award 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 reparations 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 149, 2020 General Session

63M-7-521.5 Payments to medical service providers.

- (1)
 - (a) 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 and may not attempt to collect further payment from the victim or the claimant for services for which the office has made payment.
 - (b) In the event the office is unable to make full payment in accordance with the office's 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.
- (2)
 - (a) When a medical service provider receives notice that a reparations claim has been filed, the medical service provider may not, before the office determines whether to issue a reparations award, engage in debt collection for the claim, including:
 - (i) repeatedly calling or writing to a victim and threatening to refer unpaid health care costs to a debt collection agency, attorney, or other person for collection; or
 - (ii) filing for or pursuing a legal remedy for payment of unpaid health care costs.
 - (b) The statute of limitations for collecting a debt is tolled during the time in which a request for a reparations award is being reviewed by 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 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement the fee schedule adopted in accordance with this section.

Amended by Chapter 149, 2020 General Session

63M-7-522 Emergency reparations award.

- (1) If the reparations officer determines that the claimant will suffer financial hardship unless an emergency reparations award is made, and it appears likely that a final reparations award will be made, an amount may be paid to the claimant, to be deducted from the final reparations award or repaid by and recoverable from the claimant to the extent that it exceeds the final reparations award.
- (2) The board may limit emergency reparations awards under Subsection (1) to any amount the board considers necessary.

Amended by Chapter 149, 2020 General Session

63M-7-523 Review of reparations award decision.

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

Amended by Chapter 149, 2020 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 may be paid for the assistance of an attorney or any other representative in filing the reparations 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 a reparations award is 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)
 - (a) An attorney or any other person providing assistance in a reparations claim, who contracts for or receives sums not allowed under this part, is guilty of a class B misdemeanor.
 - (b) This Subsection (3) does not apply to attorneys who assist the victim in filing a civil action against the perpetrator.

Amended by Chapter 149, 2020 General Session

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

- (1)
 - (a) The purpose of the office is to assist victims of criminally injurious conduct who may be eligible for assistance from the fund.
 - (b) Reparation to a victim under this part is limited to the money available in the fund.
- (2)
 - (a) The assistance program described in Subsection (1) is not an entitlement program.
 - (b) A reparations award may be limited or denied as determined appropriate by the board.
 - (c) Failure to grant a reparations award does not create a cause of action against the office, the state, or any of its subdivisions and there is no right to judicial review over the decision whether or not to grant a reparations award.
- (3) A cause of action based on a failure to give or receive the notice required by this part 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 nor does it affect or alter any requirement for filing or payment of a reparations claim.

Amended by Chapter 149, 2020 General Session

63M-7-526 Crime Victims Reparations Fund.

- (1)
 - (a) There is created an expendable special revenue fund known as the "Crime Victim Reparations Fund" to be administered and distributed as provided in this section by the office in cooperation with the Division of Finance.
 - (b) The fund shall consist of:
 - (i) appropriations by the Legislature; and
 - (ii) funds collected under Subsections (2) and (3).
 - (c) Money deposited in this fund is for victim reparations, other victim services, and, as appropriated, for administrative costs of the office.
- (2)

- (a) A percentage of the income earned by inmates working for correctional industries in a federally certified private sector/prison industries enhancement program shall be deposited in the fund.
 - (b) The percentage of income deducted from inmate pay under Subsection (2)(a) shall be determined by the executive director of the Department of Corrections in accordance with the requirements of the private sector/prison industries enhancement program.
- (3)
- (a) Judges are encouraged to, and may in their discretion, impose additional reparations to be paid into the fund by convicted criminals.
 - (b) The additional discretionary reparations may not exceed the statutory maximum fine permitted by Title 76, Utah Criminal Code, for that offense.

Enacted by Chapter 230, 2020 General Session

Part 6

Utah Council on Victims of Crime

63M-7-601 Creation -- Members -- Chair.

- (1) There is created within the governor's office the Utah Council on Victims of Crime.
- (2) The council shall be composed of 27 voting members as follows:
 - (a) a representative of the Commission on Criminal and Juvenile Justice appointed by the executive director;
 - (b) a representative of the Department of Corrections appointed by the executive director;
 - (c) a representative of the Board of Pardons and Parole appointed by the chair;
 - (d) a representative of the Department of Public Safety appointed by the commissioner;
 - (e) a representative of the Division of Juvenile Justice Services appointed by the director;
 - (f) a representative of the Utah Office for Victims of Crime appointed by the director;
 - (g) a representative of the Office of the Attorney General appointed by the attorney general;
 - (h) a representative of the United States Attorney for the district of Utah appointed by the United States Attorney;
 - (i) a representative of Utah's Native American community appointed by the director of the Division of Indian Affairs after input from federally recognized tribes in Utah;
 - (j) a professional or volunteer working in the area of violence against women and families appointed by the governor;
 - (k) a representative of the Department of Health's Violence and Injury Prevention Program appointed by the program's manager;
 - (l) the chair of each judicial district's victims' rights committee;
 - (m) a representative of the Statewide Association of Public Attorneys appointed by that association;
 - (n) a representative of the Utah Chiefs of Police Association appointed by the president of that association;
 - (o) a representative of the Utah Sheriffs' Association appointed by the president of that association;
 - (p) a representative of a Children's Justice Center appointed by the attorney general;
 - (q) the director of the Division of Child and Family Services or that individual's designee; and

- (r) the following members appointed by the members in Subsections (2)(a) through (2)(q) to serve four-year terms:
 - (i) an individual who engages in community based advocacy;
 - (ii) a citizen representative; and
 - (iii) a citizen representative who has been a victim of crime.
- (3) The council shall annually elect:
 - (a) one member to serve as chair;
 - (b) one member to serve as vice-chair; and
 - (c) one member to serve as treasurer.

Amended by Chapter 172, 2021 General Session

63M-7-602 Reappointment -- Vacancies.

- (1) A member appointed to serve a four-year term is eligible for reappointment.
- (2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the remainder of the unexpired term.

Amended by Chapter 172, 2021 General Session

63M-7-603 Duties of the council.

- (1) The council shall:
 - (a) make recommendations to the Legislature, the governor, and the Judicial Council on the following:
 - (i) enforcing existing rights of victims of crime;
 - (ii) enhancing rights of victims of crime;
 - (iii) the role of victims of crime in the criminal justice system;
 - (iv) victim restitution;
 - (v) educating and training criminal justice professionals on the rights of victims of crime; and
 - (vi) enhancing services to victims of crimes;
 - (b) provide training on the rights of victims of crime; and
 - (c) establish a subcommittee to consider complaints not resolved by the Victims' Rights Committee established in Section 77-37-5.
- (2) The council:
 - (a) shall advocate the adoption, repeal, or modification of laws or proposed legislation in the interest of victims of crime;
 - (b) subject to court rules and the governor's approval, may advocate in appellate courts on behalf of a victim of crime as described in Subsection 77-38-11(2)(a)(ii);
 - (c) may establish additional subcommittees to assist in accomplishing its duties; and
 - (d) shall select and appoint individuals in accordance with Section 77-37-5 to act as chairpersons of the judicial district victims' rights committees and provide assistance to the committees in their operations.

Amended by Chapter 172, 2021 General Session

63M-7-604 Member expenses.

A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (1) Section 63A-3-106;

- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Repealed and Re-enacted by Chapter 286, 2010 General Session

63M-7-605 Staffing.

- (1) The Commission on Criminal and Juvenile Justice shall provide staff to the council and any subcommittees established by the council.
- (2) Staff assigned to the council shall:
 - (a) provide administrative assistance to the council and any subcommittees; and
 - (b) receive complaints regarding victim's rights violations from victims and other interested persons and forward the complaints to the appropriate subcommittee within the council.

Amended by Chapter 172, 2021 General Session

Part 7
Domestic Violence Offender Treatment Board

63M-7-701 Definitions.

As used in this part:

- (1) "Board" means the Domestic Violence Offender Treatment Board created in Section 63M-7-702.
- (2) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

Enacted by Chapter 145, 2022 General Session

63M-7-702 Domestic Violence Offender Treatment Board -- Creation -- Membership -- Quorum -- Per diem -- Staff support -- Meetings.

- (1) There is created within the commission the Domestic Violence Offender Treatment Board consisting of the following members:
 - (a) the executive director of the Department of Corrections, or the executive director's designee;
 - (b) the executive director of the Department of Health and Human Services, or the executive director's designee;
 - (c) one individual who represents a state program that focuses on prevention of injury and domestic violence appointed by the executive director of the Department of Health and Human Services;
 - (d) the commissioner of public safety for the Department of Public Safety, or the commissioner's designee;
 - (e) the director of the Utah Office for Victims of Crime, or the director's designee;
 - (f) the chair of the Board of Pardons and Parole, or the chair's designee;
 - (g) the director of the Division of Juvenile Justice Services, or the director's designee;
 - (h) one individual who represents the Administrative Office of the Courts appointed by the state court administrator; and
 - (i) ten individuals appointed by the executive director of the commission, including:

- (i) the following four individuals licensed under Title 58, Chapter 60, Mental Health Professional Practice Act:
 - (A) a clinical social worker;
 - (B) a marriage and family therapist;
 - (C) a professional counselor; and
 - (D) a psychologist;
 - (ii) one individual who represents an association of criminal defense attorneys;
 - (iii) one criminal defense attorney who primarily represents indigent criminal defendants;
 - (iv) one individual who represents an association of prosecuting attorneys;
 - (v) one individual who represents law enforcement;
 - (vi) one individual who represents an association of criminal justice victim advocates; and
 - (vii) one individual who represents a nonprofit organization that provides domestic violence victim advocate services.
- (2)
- (a) A member may not serve on the board for more than eight consecutive years.
 - (b) If a vacancy occurs in the membership of the board appointed under Subsection (1), the member shall be replaced in the same manner in which the original appointment was made.
 - (c) A member of the board serves until the member's successor is appointed.
- (3) The members of the board shall vote on a chair and co-chair of the board to serve for two years.
- (4)
- (a) A majority of the board members constitutes a quorum.
 - (b) The action of a majority of a quorum constitutes an action of the board.
- (5) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at the rates established by the Division of Finance under:
- (a) Sections 63A-3-106 and 63A-3-107; and
 - (b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (6) The commission shall provide staff support to the board.
- (7) The board shall meet at least quarterly on a date the board sets.

Enacted by Chapter 145, 2022 General Session

63M-7-703 Board duties.

- (1) The board shall advise and make recommendations to other councils, boards, and offices within the commission that address domestic violence.
- (2) As part of the board's duties under Subsection (1), the board shall:
 - (a) research standardized procedures and methods for intimate partner and domestic violence offender evaluation, intervention, treatment, and monitoring that prioritize physical and psychological safety of the victim;
 - (b) identify and establish best practice standards for intimate partner and domestic violence evaluation, intervention, treatment, and monitoring that:
 - (i) are applicable to the state's needs;
 - (ii) are based on scientific research to address an individual's intimate partner and domestic violence risk factors; and
 - (iii) incorporate evidence-based trauma informed care to enhance the quality and continuity of intervention and treatment;

- (c) disseminate the best practice standards described in Subsection (2)(b) to the entities described in Subsection (1) to be used in the evaluation, intervention, treatment, and monitoring of intimate partner and domestic violence offenders; and
 - (d) establish a training and certification program for public and private providers of intervention and treatment for intimate partner and domestic violence offenders that requires the public and private providers to:
 - (i) comply with the best practice standards described in Subsection (2)(b) to obtain and maintain certification; and
 - (ii) participate in annual education or training to maintain certification.
- (3) The board shall:
- (a) monitor the public and private providers who participate in the training and certification program described in Subsection (2)(d) to ensure compliance with the best practice standards and annual education or training described in Subsection (2)(d); and
 - (b) annually provide a list of the public and private providers who participated in the training and certification program described in Subsection (2)(d) and are in compliance with the requirements described in Subsection (2)(d) to the Administrative Office of the Courts as a resource for judges and commissioners in domestic violence cases.

Enacted by Chapter 145, 2022 General Session