

## Chapter 5 Attorney General

### 67-5-1 General duties.

- (1) The attorney general shall:
- (a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;
  - (b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;
  - (c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of process as necessary to execute the judgment;
  - (d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;
  - (e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:
    - (i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;
    - (ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and
    - (iii) deliver this information to the attorney general's successor in office;
  - (f) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district and county attorneys' offices, including the authority described in Subsection (2);
  - (g) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:
    - (i) in accordance with Section 67-5-1.1, to the Legislature or either house;
    - (ii) to any state officer, board, or commission; and
    - (iii) to any county attorney or district attorney;
  - (h) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;
  - (i) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;
  - (j) when the property of a judgment debtor in any judgment mentioned in Subsection (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

- (k) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;
- (l) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;
- (m) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;
- (n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;
- (o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;
- (p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;
- (q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;
- (r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False Claims Act;
- (s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:
  - (i) in health care facilities that receive payments under the state Medicaid program;
  - (ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and
  - (iii) who are receiving medical assistance under the Medicaid program as defined in Section 26B-3-101 in a noninstitutional or other setting;
- (t)
  - (i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:
    - (A) cost the state more than \$500,000; or
    - (B) require the state to take legally binding action that would cost more than \$500,000 to implement; and
  - (ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;
- (u)
  - (i) submit a written report to the committees described in Subsection (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (1)(u), including any:
    - (A) settlements reached;

- (B) consent decrees entered;
  - (C) judgments issued;
  - (D) preliminary injunctions issued;
  - (E) temporary restraining orders issued; or
  - (F) formal or informal policies of the Office of the Attorney General to not enforce a law; and
  - (ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:
    - (A) the Legislative Management Committee;
    - (B) the Judiciary Interim Committee; and
    - (C) the Law Enforcement and Criminal Justice Interim Committee;
  - (v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:
    - (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
    - (ii) any other information or analysis requested by the rate committee;
  - (w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;
  - (x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;
  - (y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:
    - (i) the constitutionality of a state statute;
    - (ii) the validity of legislation; or
    - (iii) any action of the Legislature; and
  - (z)
    - (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:
      - (A) establish outreach to the tribes and affected counties and communities; and
      - (B) foster better relations and a cooperative framework; and
    - (ii) annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:
      - (A) the status of the work of the special advisor described in Subsection (1)(z)(i); and
      - (B) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (1)(z)(i).
- (2)
- (a) The attorney general may require a district attorney or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge.
  - (b) The attorney general may review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:
    - (i) a law enforcement agency submits investigation results to the county attorney or district attorney of the jurisdiction where the incident occurred and the county attorney or district attorney:
      - (A) declines to file criminal charges; or
      - (B) fails to screen the case for criminal charges within six months after the law enforcement agency's submission of the investigation results; and

- (ii) after consultation with the county attorney or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county attorney or district attorney of the jurisdiction where the incident occurred.
- (c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:
  - (i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;
  - (ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;
  - (iii) access to all evidence gathered or collected in relation to the investigation; and
  - (iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.
- (d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.
- (e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).

Amended by Chapter 330, 2023 General Session

**67-5-1.1 Written opinion to the Legislature -- Rebuttable presumption.**

- (1) When the Legislature or either house requests the attorney general's written legal opinion in accordance with Subsection 67-5-1(1)(g):
  - (a) the attorney general shall, applying concepts from the Rules of Professional Conduct contained in the Supreme Court Rules of Professional Practice, identify any potential conflicts of interest in providing the attorney general's legal opinion to the Legislature;
  - (b) if the attorney general identifies a potential conflict of interest under Subsection (1)(a), the attorney general shall, as soon as practicable after the identification:
    - (i) ensure that the attorney general's office provides each entity or individual involved in the potential conflict competent, privileged, and objective advice or representation by establishing:
      - (A) confidentiality procedures; and
      - (B) staffing divisions or other structural or administrative safeguards to screen attorneys participating in the preparation of the attorney general's opinion from participation on behalf of any other entity or individual involved in the potential conflict; and
    - (ii) provide written notice to each entity or individual involved in the potential conflict that describes the screening procedures that the attorney general establishes; and
  - (c) after complying with Subsections (1)(a) and (b), the attorney general shall provide the attorney general's opinion:
    - (i) within 30 days after the day on which the requester makes the request for the opinion; or
    - (ii) by a date upon which the attorney general and the requester agree.
- (2) There is a presumption that:
  - (a) the attorney general's reasonable compliance with Subsections (1)(a) and (b) satisfies any ethical or professional obligation arising from the potential conflict of interest; and

- (b) with adequate screening safeguards and procedures in place, the attorney general has an attorney-client relationship with each entity or individual involved in the potential conflict of interest.
- (3)
  - (a) The attorney general shall comply in good faith with the requirement to provide the opinion in accordance with Subsection 67-5-1(1)(g) and this section.
  - (b) The attorney general may not invoke the potential conflict of interest or attorney-client privilege as grounds to withhold or refuse to provide the legal opinion required in Subsection 67-5-1(1)(g) and this section.
  - (c) The Legislature or either house may petition the Utah Supreme Court for an extraordinary writ to obtain the legal opinion if the attorney general does not provide the opinion within the time period described in Subsection (1)(c).

Amended by Chapter 222, 2022 General Session

**67-5-1.2 Local investigation assistance.**

The attorney general may:

- (1) assist or intervene in a local investigation only if:
  - (a) the local law enforcement agency requests assistance; or
  - (b) the county or district attorney requests assistance; and
- (2) provide Rapid DNA assistance for a local investigation in accordance with Section 53-10-403.6 upon request of and as authorized by, both the investigating agency and the county or district attorney.

Enacted by Chapter 415, 2020 General Session

**67-5-1.5 Special duties -- Employment of staff.**

- (1) The attorney general may undertake special duties and projects as follows:
  - (a) employment of child protection services investigators under Section 67-5-16;
  - (b) administration of the Internet Crimes Against Children Task Force under Section 67-5-20;
  - (c) administration of the Internet Crimes Against Children (ICAC) Unit under Section 67-5-21;
  - (d) administration of the Attorney General Crime and Violence Prevention Fund under Section 67-5-24; and
  - (e) administration of the Mortgage and Financial Fraud Unit under Section 67-5-30.
- (2) As permitted by the provisions of this chapter, the attorney general may employ or contract with investigators, prosecutors, and necessary support staff to fulfill the special duties undertaken under this section.

Amended by Chapter 303, 2022 General Session

**67-5-3 "Agency" defined -- Performance of legal services for agencies -- Billing.**

- (1) As used in this act, "agency" means a department, division, agency, commission, board, council, committee, authority, institution, other entity within the state government of Utah, or a large public transit district as defined in Section 17B-2a-802.
- (2)
  - (a) The attorney general may assign a legal assistant to perform legal services for any agency of state government.
  - (b) The attorney general shall bill that agency for the legal services performed, if:

- (i) the agency billed receives federal funds to pay for the legal services rendered;
  - (ii) the agency collects funds from any other source in the form of fees, costs, interest, fines, penalties, forfeitures, or other proceeds reserved or designated for the payment of legal fees sufficient to pay for all or a portion of the legal services rendered; or
  - (iii) the agency is a large public transit district as defined in Section 17B-2a-802.
- (c) An agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal services rendered.

Amended by Chapter 424, 2018 General Session

**67-5-4 Interaccount billings included in budget -- Payment of staff members.**

- (1) The attorney general shall include in his annual budget all interaccount billings and pay directly out of his funds all members of his staff, whether housed in his offices or not.
- (2) The attorney general may operate the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 63J-1-410 for legal services that the Office of the Attorney General provides.

Amended by Chapter 120, 2016 General Session

**67-5-5 Hiring of legal counsel for agencies -- Costs.**

Except where specifically authorized by the Utah Constitution, or statutes, no agency shall hire legal counsel, and the attorney general alone shall have the sole right to hire legal counsel for each such agency. Where the Legislature has provided by statute for separate agency counsel, no such counsel may act as an assistant attorney general nor as a special assistant attorney general unless the attorney general shall so authorize. Unless he hires such legal counsel from outside his office, the attorney general shall remain the sole legal counsel for that agency. If outside counsel is hired for an agency, then the costs of any services to be rendered by this counsel shall be approved by the attorney general before these costs are incurred. The attorney general shall approve all billing statements from outside counsel and shall pay the full costs of this counsel unless the agency by legislative appropriation or in the form of costs, fees, fines, penalties, forfeitures or proceeds reserved or designated for the payment of legal fees receives from any other source the equivalent cost or a portion thereof, in which case the attorney general may bill the agency for the services; provided, the agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal service rendered.

Amended by Chapter 76, 1982 General Session

**67-5-6 Attorney General Career Service Act -- Citation.**

This act shall be known and may be cited as the "Attorney General Career Service Act."

Enacted by Chapter 185, 1973 General Session

**67-5-7 Establishment of career service system.**

- (1) The purpose of this chapter is to establish a career service system for employees of the Office of the Attorney General that will attract and retain employees of proven ability and experience who will devote their full time to the service of the state.

- (2) The Office of the Attorney General may adopt policies necessary to implement this chapter, including personnel and work policies different from those made by the Division of Human Resource Management.

Amended by Chapter 344, 2021 General Session

**67-5-8 Eligibility for career service status.**

- (1)
  - (a) The attorney general has sole authority to determine who may be employed with the Office of the Attorney General.
  - (b) An employee of the state or any of its departments or agencies has no claim or right to a position in the attorney general's office by virtue of that employment.
- (2)
  - (a) An employee of the Office of the Attorney General shall be placed in a career service status if:
    - (i) for an employee who is an attorney, the attorney is a member in good standing of the Utah State Bar Association; and
    - (ii) except as provided in Subsection (3), the employee has been employed by the Office of the Attorney General as a probationary employee for a period of:
      - (A) at least one year but no more than 18 months; or
      - (B) in the case of investigators, at least 18 months, but no more than two years.
  - (b) An employee now employed by the attorney general's office in career service may not be terminated under this chapter except for cause.
- (3)
  - (a) The attorney general shall determine whether an employee should be granted career service status.
  - (b) If, at the end of the probationary period established under Subsection (2), the attorney general determines that an employee should be granted career service status, the attorney general shall notify the employee in writing of that decision and place a copy of the notification in the employee's personnel file.
  - (c) If the attorney general determines that career service status should not be granted, the attorney general may either terminate the employee or extend the probationary period for a period not to exceed one year.
  - (d) The attorney general shall notify the employee in writing of that decision and place a copy of the notification in the employee's personnel file.
  - (e) An employee terminated under this section has no appeal rights under this chapter.

Amended by Chapter 101, 2012 General Session

**67-5-9 Reassignment of career status employees -- Additional compensation for managerial assignments -- Employment of special assistant attorneys general -- Termination of employees -- Salary increases.**

This chapter does not affect the authority of the attorney general to:

- (1) assign and reassign employees in a career status to different positions on his staff. The salary of an employee reassigned to a different position shall not be decreased by reason of reassignment; except that if the employee reassigned occupies the position of chief deputy attorney general, the salary may be reduced by not more than 15% upon the assignment to a different position;

- (2) develop a plan for additional compensation for career status employees who accept managerial assignments within the office. The provisions of Subsection (1) notwithstanding, the attorney general may discontinue any additional compensation if the employee no longer holds a managerial assignment. Additional compensation provided under this section shall be determined by the attorney general pursuant to the plan developed by the Office of the Attorney General. If the employee no longer holds a managerial assignment, and the attorney general decides to discontinue any additional compensation, the reduction may not place the employee at a salary below where the employee would be through normal salary increases if the employee had not been in a managerial position;
- (3) employ special assistant attorneys general, who shall not be subject to this chapter, to represent the state in particular lawsuits or to handle particular legal matters for the state;
- (4) terminate the employment of any employee of the Office of the Attorney General who is not in a career service status; or
- (5) establish the salary or determine salary increases of any employee under this chapter.

Amended by Chapter 166, 2007 General Session

**67-5-10 Career status attorneys as full-time employees -- Completion of outside law practice.**

- (1) Attorneys in a career status shall be full-time employees and shall not engage in the private practice of law and shall not receive any fee for legal services rendered to any person, corporation, partnership, or other legal entity other than the state or the county in which the person holds office or by whom the person is employed. The practice of law prohibited by this subsection does not include pro bono service.
- (2) Attorneys on probationary status who have not been granted career service status may, in the discretion of the attorney general, be granted permission to complete or handle legal matters previously begun before employment with the attorney general's office, but may not begin new matters once employed. Once career service status is conferred, the attorney is bound by the provisions of Subsection (1).
- (3) The provisions of this section shall not apply to special assistant attorneys general retained on a fee basis to render services in connection with a single case or a related series of cases.

Amended by Chapter 199, 1994 General Session

**67-5-11 Employee accepting appointment to state position exempt from merit provisions -- Reinstatement in career status.**

- (1) An employee in a career status accepting appointment to a position in state government which is exempt from the merit provisions of Title 63A, Chapter 17, Utah State Personnel Management Act, shall notify the attorney general in writing. Upon termination of the appointment, unless discharged for cause, the employee, through written request of reinstatement made to the attorney general within 30 days from the effective date of termination from the appointment, shall be reinstated in a career status in the attorney general's office at a salary not less than that which he was receiving at the time of his appointment, and the time spent in the other position shall be credited toward seniority in the career service. Reinstatement shall be made no later than 60 days after the written notification required by this Subsection (1) or 60 days after the effective date of termination from the employee's appointive position, whichever is later. The position and assignment to which the employee shall return shall be determined by the attorney general.



- (2)
  - (a) The Office of the Attorney General shall establish and maintain a separate seniority list for each employee category, which categories may include attorneys, investigators, paralegals, secretaries, and others.
  - (b) An employee of the Office of the Attorney General with less seniority than an employee in the same category entitled to be reinstated under this section holds his position subject to any reinstatement provided by Subsection (1).

Amended by Chapter 345, 2021 General Session

**67-5-12 Dismissal of career status employees -- Causes -- Procedure -- Retention roster -- Reappointment register.**

- (1)
  - (a) Employees in a career status may be dismissed only:
    - (i) to advance the good of public service;
    - (ii) where funds have expired or work no longer exists; or
    - (iii) for any of the following causes or reasons:
      - (A) noncompliance with provisions in the Office of Attorney General policy manual, or division policies, and, for attorneys, noncompliance with the Rules of Professional Conduct;
      - (B) work performance that is inefficient or incompetent;
      - (C) failure to maintain skills and adequate performance levels;
      - (D) insubordination or disloyalty to the orders of a superior;
      - (E) misfeasance, malfeasance, or nonfeasance;
      - (F) failure to advance the good of the public service, including conduct on or off duty which demeans or harms the effectiveness or ability of the office to fulfill its mission or legal obligations;
      - (G) conduct on or off duty which creates a conflict of interest with the employee's public responsibilities or impact that employee's ability to perform his or her job assignments;
      - (H) any incident involving intimidation, physical harm, threats of physical harm against coworkers, management, or the public;
      - (I) failure to meet the requirements of the position;
      - (J) dishonesty; or
      - (K) misconduct.
  - (b) Employees in career status may not be dismissed for reasons of race, national origin, religion, or political affiliation.
- (2) Except in aggravated cases of misconduct, an employee in a career status may not be suspended, demoted, or dismissed without the following procedures:
  - (a) The attorney general or a designated representative shall notify the employee of the reasons for suspension, demotion, or dismissal.
  - (b) The employee shall have an opportunity to reply and have the reply considered by the attorney general or a designated representative.
  - (c) The employee shall have an opportunity to be heard by the attorney general or a designated representative.
  - (d) Following a hearing, an employee may be suspended, demoted, or dismissed if the attorney general or a designated representative finds adequate reason.
  - (e) If the attorney general or a designated representative finds that retention of an employee would endanger the peace and safety of others or pose a grave threat to the public interest,

the employee may be summarily suspended pending administrative hearings and a review by the Career Service Review Office.

- (3)
  - (a) An employee in a career status who is aggrieved by a decision of the attorney general or a designated representative to suspend, demote, or dismiss the employee may appeal the decision to the Career Service Review Office or its hearing officers by following the procedures in Title 67, Chapter 19a, Grievance Procedures.
  - (b) Matters other than dismissal or demotion may be appealed to and reviewed by the attorney general or a designated representative whose decision is final with no right of appeal to the Career Service Review Office or its hearing officers.
- (4) Disciplinary actions shall be supported by credible evidence, but the normal rules of evidence in courts of law do not apply in hearings before the attorney general or a designated representative or the Career Service Review Office or its hearing officers.
- (5)
  - (a) Reductions in force required by reinstatement of an employee under Section 67-5-11, inadequate funds, change of workload, or lack of work shall be governed by a retention roster to be maintained by the Office of the Attorney General and the requirements of this Subsection (5).
  - (b) Except attorney general executive or administrative appointees, employees not in a career status shall be separated before any employee in a career status.
  - (c) Retention points for each employee in a career status shall be based on the employee's seniority in service within each employee category in the Office of the Attorney General, including any military service fulfilled subsequent to the employee's original appointment.
  - (d) Employees in career status shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.
  - (e) Those employees who are serving in other positions under Section 67-5-11 shall:
    - (i) have retention points determined as if they were working for the office; and
    - (ii) be separated in the order of the retention points as if they were working in the Office of the Attorney General.
  - (f) An employee in a career status who is separated by reason of a reduction in force shall be:
    - (i) placed on a reappointment register kept by the Office of the Attorney General for one year; and
    - (ii) offered reappointment to a position in the same category in the Office of the Attorney General before any employee not having a career status is appointed.

Amended by Chapter 369, 2012 General Session

**67-5-13 Limitations on political activities by career status employees.**

- (1) An employee in a career status may not, while in a pay status, be a state or federal officer in any partisan political party organization or in any statewide partisan political campaign. The employee, however, may be an officer or delegate in a partisan political party organization at a county or inferior level or a delegate at a state or national level.
- (2) An employee in career status may not be a candidate for any partisan political office, but upon application to the attorney general the employee shall be granted a leave of absence without pay but without loss of existing seniority to participate in a partisan political campaign either as an officer or as a candidate. Time spent during the political leave shall not be counted for seniority purposes as being in service. For the purposes of this section, an employee is not considered to be a candidate until the primary elections have been held.

- (3) An employee in career status may not engage in political activity during the hours of employment, nor may any person solicit political contributions from any employee in career status during hours of employment or through state facilities or in any manner impose assessments on them for political purposes; but nothing in this section shall preclude voluntary contributions to a candidate or a political party.
- (4) Partisan political activity shall not be a basis for employment, promotion, demotion, or dismissal. Any violation of this section may lead to disciplinary action against the employee, which may consist of reprimand, suspension, demotion, or termination as determined by the attorney general.
- (5) This section shall not be construed to permit partisan political activity by any employee in career status who is prevented or restricted from engaging in this political activity by the provisions of any federal act or the rules and regulations promulgated under it.

Amended by Chapter 166, 2007 General Session

**67-5-15 Records of the attorney general.**

- (1) A record provided to the Office of the Attorney General by a client governmental entity shall be considered a record of the client governmental entity for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, if the client governmental entity retains a copy of the record.
- (2) Notwithstanding Subsection 63G-2-201(5), records may be exchanged between the Office of the Attorney General and a client governmental entity, without meeting the requirements of Section 63G-2-206 provided that they are used only for the purpose of representing the client governmental entity.

Amended by Chapter 382, 2008 General Session

**67-5-16 Child protective services investigators within attorney general's office -- Authority -- Training.**

- (1) The attorney general may employ, with the consent of the Division of Child and Family Services within the Department of Health and Human Services, and in accordance with Section 80-2-703, child protective services investigators to investigate alleged instances of abuse or neglect of a child that occur while a child is in the custody of the Division of Child and Family Services. Those investigators may also investigate reports of abuse or neglect of a child by an employee of the Department of Health and Human Services, or involving a person or entity licensed to provide substitute care for children in the custody of the Division of Child and Family Services.
- (2) Attorneys who represent the Division of Child and Family Services under Section 67-5-17, and child protective services investigators employed by the attorney general under Subsection (1), shall be trained on and implement into practice the following items, in order of preference and priority:
  - (a) the priority of maintaining a child safely in the child's home, whenever possible;
  - (b) the importance of:
    - (i) kinship placement, in the event the child is removed from the home; and
    - (ii) keeping sibling groups together, whenever practicable and in the best interests of the children;
  - (c) the preference for kinship adoption over nonkinship adoption, if the parent-child relationship is legally terminated;

- (d) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and
- (e) the use of an individualized permanency goal, only as a last resort.

Amended by Chapter 330, 2023 General Session

**67-5-17 Attorney-client relationship.**

- (1) When representing the governor, lieutenant governor, auditor, or treasurer, or when representing an agency under the supervision of any of those officers, the attorney general shall:
  - (a) keep the officer or the officer's designee reasonably informed about the status of a matter and promptly comply with reasonable requests for information;
  - (b) explain a matter to the extent reasonably necessary to enable the officer or the officer's designee to make informed decisions regarding the representation;
  - (c) abide by the officer's or designee's decisions concerning the objectives of the representation and consult with the officer or designee as to the means by which they are to be pursued; and
  - (d) jointly by agreement, establish protocols with the officer to facilitate communications and working relationships with the officer or agencies under the officer's supervision.
- (2) Nothing in Subsection (1) modifies or supercedes any independent legal authority granted specifically by statute to the attorney general.
- (3) When the attorney general institutes or maintains a civil enforcement action on behalf of the state of Utah that is not covered under Subsection (1), the attorney general shall:
  - (a) fully advise the governor, as the officer in whom the executive authority of the state is vested, before instituting the action, entering into a settlement or consent decree, or taking an appeal; and
  - (b) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information.
- (4) In a civil action not covered under Subsection (1) or (3), the attorney general shall:
  - (a) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information;
  - (b) explain the matter to the extent reasonably necessary to enable the governor to make informed decisions regarding the representation; and
  - (c) abide by the governor's decisions concerning the objectives of the representation and consult with the governor as to the means by which they are to be pursued.
- (5) The governor may appear in any civil legal action involving the state and appoint legal counsel to advise or appear on behalf of the governor. The court shall allow the governor's appearance.

Enacted by Chapter 212, 2000 General Session

**67-5-20 Internet crimes against children -- Education programs.**

- (1)
  - (a) The attorney general may assist in efforts to prevent and prosecute Internet crimes against children, including working with other agencies of state and local government.
  - (b) Under Subsection (1)(a), the attorney general may administer the Internet Crimes Against Children Task Force, which is a statewide multidisciplinary and multijurisdictional task force that investigates, prevents, and prosecutes sexual exploitation offenses against children

by offenders who use the Internet, online communications systems, or other computer technology.

- (2)
  - (a) As part of the attorney general's participation in this task force, the attorney general shall make available, to the extent legislative funding is available, statewide training and informational materials regarding Internet safety for children that focuses on prevention, reporting, and assistance regarding Internet crimes against children.
  - (b) The training and information shall include programs and information specifically designed for:
    - (i) children, which shall include classroom presentations and informative leaflets or other printed material; and
    - (ii) parents, guardians, educators, school resource officers, parent-teacher organizations, and libraries, which shall include Internet safety, technological protection measures, and effective supervision and review of children's use of the Internet, including locating and assessing sites children have had contact with.
  - (c) As possible, the attorney general shall direct that the task force work with state and local agencies that provide information and programs to prevent and prosecute Internet crimes against children to ensure the most effective use of resources.

Enacted by Chapter 277, 2005 General Session

**67-5-21 Internet Crimes Against Children (ICAC) unit creation -- Duties -- Employment of staff.**

- (1) There is created within the Office of the Attorney General the Internet Crimes Against Children (ICAC) unit to investigate and prosecute cases involving child sexual abuse material and cases involving enticing minors over the Internet into illegal sexual acts.
- (2) The attorney general may employ investigators, prosecutors, and necessary support staff for the unit created under Subsection (1).

Amended by Chapter 231, 2023 General Session

**67-5-22.7 Multi-agency strike force to combat violent and other major felony crimes associated with illegal immigration and human trafficking -- Fraudulent Documents Identification Unit.**

- (1) The Office of the Attorney General is authorized to administer and coordinate the operation of a multi-agency strike force to combat violent and other major felony crimes committed within the state that are associated with illegal immigration and human trafficking.
- (2) The office shall invite officers of the U.S. Immigration and Customs Enforcement and state and local law enforcement personnel to participate in this mutually supportive, multi-agency strike force to more effectively utilize their combined skills, expertise, and resources.
- (3) The strike force shall focus its efforts on detecting, investigating, deterring, and eradicating violent and other major felony criminal activity related to illegal immigration and human trafficking.
- (4) In conjunction with the strike force and subject to available funding, the Office of the Attorney General shall establish a Fraudulent Documents Identification Unit:
  - (a) for the primary purpose of investigating, apprehending, and prosecuting individuals or entities that participate in the sale or distribution of fraudulent documents used for identification purposes;

- (b) to specialize in fraudulent identification documents created and prepared for individuals who are unlawfully residing within the state; and
  - (c) to administer the Identity Theft Victims Restricted Account created under Subsection (5).
- (5)
- (a) There is created a restricted account in the General Fund known as the "Identity Theft Victims Restricted Account."
  - (b) The Identity Theft Victims Restricted Account shall consist of money appropriated to the Identity Theft Victims Restricted Account by the Legislature.
  - (c) Subject to appropriations from the Legislature, beginning on the program start date, as defined in Section 63G-12-102, the Fraudulent Documents Identification Unit may expend the money in the Identity Theft Victims Restricted Account to pay a claim as provided in this Subsection (5) to a person who is a victim of identity theft prosecuted under Section 76-6-1102 or 76-10-1801.
  - (d) To obtain payment from the Identity Theft Victims Restricted Account, a person shall file a claim with the Fraudulent Documents Identification Unit by no later than one year after the day on which an individual is convicted, pleads guilty to, pleads no contest to, pleads guilty in a similar manner to, or resolved by diversion or its equivalent an offense under Section 76-6-1102 or 76-10-1801 for the theft of the identity of the person filing the claim.
  - (e) A claim filed under this Subsection (5) shall include evidence satisfactory to the Fraudulent Documents Identification Unit:
    - (i) that the person is the victim of identity theft described in Subsection (5)(d); and
    - (ii) of the actual damages experienced by the person as a result of the identity theft that are not recovered from a public or private source.
  - (f) The Fraudulent Documents Identification Unit shall pay a claim from the Identity Theft Victims Restricted Account:
    - (i) if the Fraudulent Documents Identification Unit determines that the person has provided sufficient evidence to meet the requirements of Subsection (5)(e);
    - (ii) in the order that claims are filed with the Fraudulent Documents Identification Unit; and
    - (iii) to the extent that it there is money in the Identity Theft Victims Restricted Account.
  - (g) If there is insufficient money in the Identity Theft Victims Restrict Account when a claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents Identification Unit may pay a claim when there is sufficient money in the account to pay the claim in the order that the claims are filed.
- (6) The strike force shall make an annual report on its activities to the governor and the Legislature's Law Enforcement and Criminal Justice Interim Committee by December 1, together with any proposed recommendations for modifications to this section.

Amended by Chapter 18, 2011 General Session

**67-5-23 Use of state vehicles for law enforcement officers.**

Subject to rules adopted by the Division of Fleet Operations under Section 63A-9-401, the attorney general may authorize a law enforcement officer, as defined in Section 53-13-103, who is an employee of the Office of the Attorney General to use a state issued vehicle for official and personal use.

Amended by Chapter 295, 2017 General Session

**67-5-24 Attorney General Crime and Violence Prevention Fund -- Use of money -- Restrictions -- Volunteer task force -- Staff.**

- (1) There is created an expendable special revenue fund known as the Attorney General Crime and Violence Prevention Fund.
- (2) The fund shall consist of:
  - (a) appropriations by the Legislature;
  - (b) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source; and
  - (c) money granted by the federal government, or donated or granted by another person, for a purpose described in Subsection (4)(n).
- (3)
  - (a) If the donor designates a specific purpose or use for a gift, grant, devise, donation, or bequest provided under Subsection (2)(b), money from the fund shall be used solely for that purpose.
  - (b) Unless designated for a specific purpose under Subsection (3)(a), money in the fund not restricted to a specific use under federal law shall be used in connection with the activities under Subsection (4).
  - (c) The attorney general or the attorney general's designee shall authorize the expenditure of fund money in accordance with this section.
  - (d) The money in the fund may not be used for administrative expenses of the Office of the Attorney General normally provided for by legislative appropriation, except for the purposes described in Subsection (8).
- (4) Except as provided under Subsection (3), the fund money shall be used for any of the following activities:
  - (a) the Amber Alert program;
  - (b) prevention of crime against seniors;
  - (c) prevention of domestic violence and dating violence;
  - (d) programs designed to reduce the supply or demand of illicit or controlled substances;
  - (e) preventing gangs and gang violence;
  - (f) Internet safety programs, including Internet literacy for parents;
  - (g) mentoring Utah partnerships;
  - (h) suicide prevention programs;
  - (i) underage alcohol and substance misuse prevention programs;
  - (j) anti-pornography programs;
  - (k) victims assistance programs;
  - (l) identity theft investigations and prosecutions;
  - (m) identity theft reporting system database; or
  - (n) in relation to the drug disposal program described in Section 67-5-36:
    - (i) the purchase, operation, or maintenance of a repository in the state;
    - (ii) the purchase or distribution of a home controlled substance disposal receptacle;
    - (iii) educating citizens on the lawful and environmentally friendly disposal of a controlled substance; or
    - (iv) notwithstanding Subsection (3)(d), if not prohibited by the grantor or donor described in Subsection (2)(b), the costs of administering the drug disposal program, in an amount that does not exceed 10% of the money provided by the grantor or donor.
- (5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the fund money shall be deposited in the fund.

- (6) The attorney general shall make an annual report to the Legislature regarding the status of the fund, including:
  - (a) a report on the contributions received, expenditures made, and programs and services funded; and
  - (b) if the attorney general establishes a task force under Subsection (7), all activities and programs initiated through the task force.
- (7) The attorney general may establish a volunteer task force consisting of representatives from public or private agencies or organizations in the state to address any of the activities described in Subsection (4).
- (8) The attorney general may employ necessary support staff to implement and administer the fund and the activities of a task force established under Subsection (7).

Amended by Chapter 210, 2020 General Session

Amended by Chapter 443, 2020 General Session

**67-5-27 Real estate fraud prosecutor.**

- (1) The state attorney general shall employ an attorney licensed to practice law in Utah who:
  - (a) has knowledge of the law related to mortgage fraud; and
  - (b) preferably also has background or expertise in investigating and prosecuting mortgage fraud.
- (2) The primary responsibility of the attorney employed under Subsection (1) is the prosecution of real estate fraud.
- (3) The state attorney general may employ clerks, interns, or other personnel as necessary to assist the attorney employed under Subsection (1).

Enacted by Chapter 370, 2008 General Session

**67-5-28 Memorandum of Understanding regarding enforcement of federal immigration laws -- Communications regarding immigration status -- Private cause of action.**

- (1) The attorney general shall negotiate the terms of a Memorandum of Understanding between the state and the United States Department of Justice or the United States Department of Homeland Security as provided in 8 U.S.C., Sec. 1357(g) for the enforcement of federal immigration and customs laws within the state by state and local law enforcement personnel, to include investigations, apprehensions, detentions, and removals of persons who are illegally present in the United States.
- (2) The attorney general, the governor, or an individual otherwise required by the appropriate federal agency referred to in Subsection (1) shall sign the Memorandum of Understanding on behalf of the state.
- (3)
  - (a) A unit of local government, whether acting through its governing body or by an initiative or referendum, may not enact an ordinance or policy that limits or prohibits a law enforcement officer, local official, or local government employee from communicating or cooperating with federal officials regarding the immigration status of a person within the state.
  - (b) Notwithstanding any other provision of law, a government entity or official within the state may not prohibit or in any way restrict a government entity or official from sending to, or receiving from, the United States Department of Homeland Security information regarding the citizenship or immigration status, lawful or unlawful, of an individual.



- (c) Notwithstanding any other provision of law, a person or agency may not prohibit or in any way restrict a public employee from doing the following regarding the immigration status, lawful or unlawful, of an individual:
  - (i) sending information to or requesting or receiving information from the United States Department of Homeland Security;
  - (ii) maintaining the information referred to in Subsection (3)(c)(i); and
  - (iii) exchanging the information referred to in Subsection (3)(c)(i) with any other federal, state, or local government entity.
- (d) This Subsection (3) allows for a private right of action by a natural or legal person lawfully domiciled in this state to file for a writ of mandamus to compel a noncompliant local or state governmental agency to comply with the reporting laws of this Subsection (3).

Enacted by Chapter 26, 2008 General Session

**67-5-29 Duty to file legal actions.**

- (1) The attorney general may file an action to enforce the Utah Enabling Act, Section 9.
- (2) In accordance with Title 78B, Chapter 6, Particular Proceedings, the attorney general shall file an eminent domain action or quiet title action on property possessed by the federal government:
  - (a)
    - (i) that facilitates the state's ability to manage the school and institutional trust lands consistent with the state's fiduciary responsibilities towards the beneficiaries of the trust lands; and
    - (ii)
      - (A) that provides access to school and institutional trust lands; or
      - (B) that increases the profitability of the school and institutional trust lands; or
  - (b) for a public use that increases the ability of the state to generate revenue.
- (3) The attorney general shall file, by no later than July 1, 2011, an eminent domain action or quiet title action described in Subsection (2) on property possessed by the federal government for:
  - (a) a highway on Spring Creek Road located in the western half of section 3, township 38 south, range 12 west to provide access to section 2, township 38 south, range 12 west;
  - (b) a highway off of Old Canyon Road located in the northeast quarter of the southeast quarter of section 5, township 10 north, range 5 east to provide access to the southeast quarter of the southeast quarter of section 32, township 11 north, range 5 east; or
  - (c) the purposes described in Subsection (2).

Enacted by Chapter 262, 2010 General Session

**67-5-30 Mortgage and Financial Fraud Unit creation -- Duties -- Employment of staff.**

- (1) The attorney general may assist in efforts to prevent, investigate, and prosecute mortgage fraud, as described in Section 76-6-1203, and other financial fraud, including working with other agencies of state and local government.
- (2) There is created within the Office of the Attorney General the Mortgage and Financial Fraud Unit to investigate and prosecute cases of mortgage fraud and other financial fraud.
- (3) The Mortgage and Financial Fraud Unit shall focus its efforts on detecting, investigating, deterring, and prosecuting mortgage fraud and other major financial fraud crimes.
- (4) The attorney general may employ investigators, prosecutors, and necessary support staff for the unit created under Subsection (2).

Enacted by Chapter 350, 2012 General Session

**67-5-31 Mortgage and Financial Fraud Investigation and Prosecution Restricted Account.**

- (1) There is created a restricted account within the General Fund known as the "Mortgage and Financial Fraud Investigation and Prosecution Restricted Account."
- (2) The restricted account includes:
  - (a) \$2,000,000 of deposits from the foreclosure fraud settlement agreement between the United States Justice Department, United States Department of Housing and Urban Development, and a bipartisan group of state attorneys general, including Utah's attorney general, Bank of America, Citi, JP Morgan Chase, GMAC, and Wells Fargo announced in February 2012; and
  - (b) any other amount appropriated by the Legislature.
- (3) Money from the restricted account shall be used by the attorney general to:
  - (a) investigate and prosecute mortgage and financial fraud throughout the state; and
  - (b) fund mortgage and financial fraud investigation and prosecution staff.

Enacted by Chapter 350, 2012 General Session

**67-5-32 Rulemaking authority regarding the procurement of outside counsel, expert witnesses, and other litigation support services.**

- (1) The attorney general shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish public disclosure, transparency, accountability, reasonable fees and limits on fees, and reporting in relation to the procurement of outside counsel, expert witnesses, and other litigation support services.
- (2) The rules described in Subsection (1) shall:
  - (a) ensure that a procurement for outside counsel is supported by a determination by the attorney general that the procurement is in the best interests of the state, in light of available resources of the attorney general's office;
  - (b) provide for the fair and equitable treatment of all potential providers of outside counsel, expert witnesses, and other litigation support services;
  - (c) ensure a competitive process, to the greatest extent possible, for the procurement of outside counsel, expert witnesses, and other litigation support services;
  - (d) ensure that fees for outside counsel, whether based on an hourly rate, contingency fee, or other arrangement, are reasonable and consistent with industry standards;
  - (e) ensure that contingency fee arrangements do not encourage high risk litigation that is not in the best interests of the citizens of the state;
  - (f) provide for oversight and control, by the attorney general's office, in relation to outside counsel, regardless of the type of fee arrangement under which outside counsel is hired;
  - (g) prohibit outside counsel from adding a party to a lawsuit or causing a new party to be served with process without the express written authorization of the attorney general's office;
  - (h) establish for transparency regarding the procurement of outside counsel, expert witnesses, and other litigation support services, subject to:
    - (i) Title 63G, Chapter 2, Government Records Access and Management Act; and
    - (ii) other applicable provisions of law and the Utah Rules of Professional Conduct;
  - (i) establish standard contractual terms for the procurement of outside counsel, expert witnesses, and other litigation support services; and
  - (j) provide for the retention of records relating to the procurement of outside counsel, expert witnesses, and other litigation support services.

Amended by Chapter 18, 2017 General Session

**67-5-33 Contingent fee contracts.**

- (1) As used in this section:
  - (a) "Contingent fee case" means a legal matter for which legal services are provided under a contingent fee contract.
  - (b) "Contingent fee contract" means a contract for legal services under which the compensation for legal services is a percentage of the amount recovered in the legal matter for which the legal services are provided.
  - (c) "Government attorney" means the attorney general or an assistant attorney general.
  - (d) "Legal matter" means a legal issue or administrative or judicial proceeding within the scope of the attorney general's authority.
  - (e) "Private attorney" means an attorney or law firm in the private sector.
  - (f) "Securities class action" means an action brought as a class action alleging a violation of federal securities law, including a violation of the Securities Act of 1933, 15 U.S.C. Sec. 77a et seq., or the Securities Exchange Act of 1934, 15 U.S.C. Sec. 78a et seq.
- (2) Subsections (3) through (9):
  - (a) do not apply to a contingent fee contract in existence before May 12, 2015, or to any renewal or modification of a contingent fee contract in existence before that date;
  - (b) do not apply to a contingent fee contract with a private attorney that the attorney general hires to collect a debt that the attorney general is authorized by law to collect; and
  - (c) with respect to a contingent fee contract with a private attorney in a securities class action in which the state is appointed as lead plaintiff under Section 27(a)(3)(B)(i) of the Securities Act of 1933 or Section 21D(a)(3)(B)(i) of the Securities Exchange Act of 1934 or in which any state is a class representative, or in any other action in which the state is participating with one or more other states:
    - (i) apply only with respect to the state's share of any judgment, settlement amount, or common fund; and
    - (ii) do not apply to attorney fees awarded to a private attorney for representing other members of a class certified under Rule 23 of the Federal Rules of Civil Procedure or applicable state class action procedural rules.
- (3)
  - (a) The attorney general may not enter into a contingent fee contract with a private attorney unless the attorney general or the attorney general's designee makes a written determination that the contingent fee contract is cost-effective and in the public interest.
  - (b) A written determination under Subsection (3)(a) shall:
    - (i) be made before or within a reasonable time after the attorney general enters into a contingent fee contract; and
    - (ii) include specific findings regarding:
      - (A) whether sufficient and appropriate legal and financial resources exist in the attorney general's office to handle the legal matter that is the subject of the contingent fee contract; and
      - (B) the nature of the legal matter, unless information conveyed in the findings would violate an ethical responsibility of the attorney general or a privilege held by the state.
- (4) The attorney general or attorney general's designee shall request qualifications from a private attorney being considered to provide services under a contingent fee contract unless the attorney general or attorney general's designee:
  - (a) determines that requesting qualifications is not feasible under the circumstances; and

(b) sets forth the basis for the determination under Subsection (4)(a) in writing.

- (5)
- (a) The attorney general may not enter into a contingent fee contract with a private attorney that provides for the private attorney to receive a contingent fee, exclusive of reasonable costs and expenses, that exceeds:
    - (i)
      - (A) 25% of the amount recovered, if the amount recovered is no more than \$10,000,000;
      - (B) 25% of the first \$10,000,000 recovered, plus 20% of the amount recovered that exceeds \$10,000,000, if the amount recovered is over \$10,000,000 but no more than \$15,000,000;
      - (C) 25% of the first \$10,000,000 recovered, plus 20% of the next \$5,000,000 recovered, plus 15% of the amount recovered that exceeds \$15,000,000, if the amount recovered is over \$15,000,000 but no more than \$20,000,000; and
      - (D) 25% of the first \$10,000,000 recovered, plus 20% of the next \$5,000,000 recovered, plus 15% of the next \$5,000,000 recovered, plus 10% of the amount recovered that exceeds \$20,000,000, if the amount recovered is over \$20,000,000; or
    - (ii) \$50,000,000.
  - (b) A provision of a contingent fee contract that is inconsistent with a provision of this section is invalid unless, before the contract is executed, the contingent fee contract provision is approved by a majority of the attorney general, state treasurer, and state auditor.
  - (c) A contingent fee under a contingent fee contract may not be based on the imposition or amount of a penalty or civil fine.
  - (d) A contingent fee under a contingent fee contract may be paid only on amounts actually recovered by the state.
- (6)
- (a) Throughout the period covered by a contingent fee contract, including any extension of the contingent fee contract:
    - (i) the private attorney that is a party to the contingent fee contract shall acknowledge that the government attorney retains complete control over the course and conduct of the contingent fee case for which the private attorney provides legal services under the contingent fee contract;
    - (ii) a government attorney with supervisory authority shall oversee any litigation involved in the contingent fee case;
    - (iii) a government attorney retains final authority over any pleading or other document that the private attorney submits to court;
    - (iv) an opposing party in a contingent fee case may contact the lead government attorney directly, without having to confer with the private attorney;
    - (v) a government attorney with supervisory authority over the contingent fee case may attend all settlement conferences; and
    - (vi) the private attorney shall acknowledge that final approval regarding settlement of the contingent fee case is reserved exclusively to the discretion of the attorney general.
  - (b) Nothing in Subsection (6)(a) may be construed to limit the authority of the client regarding the course, conduct, or settlement of the contingent fee case.
- (7)
- (a) Within five business days after entering into a contingent fee contract, the attorney general shall post on the attorney general's website:
    - (i) the contingent fee contract;
    - (ii) the written determination under Subsection (3) relating to that contingent fee contract; and

- (iii) if applicable, any written determination made under Subsection (4)(b) relating to that contingent fee contract.
- (b) The attorney general shall keep the contingent fee contract and written determination posted on the attorney general's website throughout the term of the contingent fee contract.
- (8) A private attorney that enters into a contingent fee contract with the attorney general shall:
  - (a) from the time the contingent fee contract is entered into until three years after the contract expires, maintain detailed records relating to the legal services provided by the private attorney under the contingent fee contract, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that relate to the legal services provided by the private attorney; and
  - (b) maintain detailed contemporaneous time records for the attorneys and paralegals working on the contingent fee case and promptly provide the records to the attorney general upon request.
- (9)
  - (a) After June 30 but on or before September 1 of each year, the attorney general shall submit a written report to the president of the Senate and the speaker of the House of Representatives describing the attorney general's use of contingent fee contracts with private attorneys during the fiscal year that ends the immediately preceding June 30.
  - (b) A report under Subsection (9)(a) shall:
    - (i) identify:
      - (A) each contingent fee contract the attorney general entered into during the fiscal year that ends the immediately preceding June 30; and
      - (B) each contingent fee contract the attorney general entered into during any earlier fiscal year if the contract remained in effect for any part of the fiscal year that ends the immediately preceding June 30;
    - (ii) for each contingent fee contract identified under Subsection (9)(b)(i):
      - (A) state the name of the private attorney that is a party to the contingent fee contract, including the name of the private attorney's law firm if the private attorney is an individual;
      - (B) describe the nature of the legal matter that is the subject of the contingent fee contract, unless describing the nature of the legal matter would violate an ethical responsibility of the attorney general or a privilege held by the state;
      - (C) identify the state agency which the private attorney was engaged to represent or counsel; and
      - (D) state the total amount of attorney fees approved by the attorney general for payment to a private attorney for legal services under a contingent fee contract during the fiscal year that ends the immediately preceding June 30; and
    - (iii) be accompanied by each written determination under Subsection (3) or (4)(b) made during the fiscal year that ends the immediately preceding June 30.
- (10) Nothing in this section may be construed to expand the authority of a state department, division, or other agency to enter into a contract if that authority does not otherwise exist.

Enacted by Chapter 362, 2015 General Session

**67-5-34 Rate committee -- Membership -- Duties.**

- (1)
  - (a) There is created a rate committee that consists of:
    - (i) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee; and

- (ii) the executive directors of six state agencies that use or are likely to use services and pay rates to the Office of the Attorney General's internal service fund, appointed by the governor for a two-year term, or the executive directors' designees.
- (b) The rate committee shall elect a chair from the rate committee's members.
- (2) Each member of the rate committee who is a state government employee and does not receive salary, per diem, or expenses from the member's agency for the member's service on the rate committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the rate committee.
- (3) The Office of the Attorney General shall provide staff services to the rate committee.
- (4) The Office of the Attorney General shall submit to the rate committee a proposed rate and fee schedule for legal services rendered by the Office of the Attorney General to an agency.
- (5)
  - (a) The rate committee shall:
    - (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;
    - (ii) review the proposed rate and fee schedules and, at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules;
    - (iii) recommend a proposed rate and fee schedule for the internal service fund to:
      - (A) the Governor's Office of Planning and Budget; and
      - (B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund rates, fees, and budget; and
    - (iv) review and approve, increase or decrease an interim rate, fee, or amount when the office begins a new service or introduces a new product between annual general sessions of the Legislature.
  - (b) The committee may, in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Amended by Chapter 382, 2021 General Session

**67-5-35 Lawful use of force -- Training program.**

- (1)
  - (a) The attorney general is authorized to administer and coordinate the provision of legal and practical training for law enforcement officers in the state regarding the constitutional and lawful use of force, including:
    - (i) best practices in reducing law enforcement officer use of force; and
    - (ii) legal foundations and limitations on law enforcement officer authority under Section 76-2-404, the Utah Constitution or laws of the state, and the United States Constitution or laws of the United States.
  - (b) Under Subsection (1)(a), the attorney general may create a training center and provide:
    - (i) technology integrating legal training on the use of force by law enforcement officers;
    - (ii) best practices regarding law enforcement officer response to threatening situations; and
    - (iii) law enforcement officer tactical training, including:
      - (A) virtual reality simulator training;
      - (B) investigation of a use of force incident; and
      - (C) legal documentation of use of force.
- (2)
  - (a) The attorney general shall make available statewide legal and practical training for law enforcement officers in the state and informational materials regarding law enforcement officer use of force and related subjects.

- (b) The training and informational materials shall include programs and information specifically designed to address:
  - (i) pre-escalation recognition of potential resistance and law enforcement officer response options that do not involve force;
  - (ii) decision-making skills regarding use of force;
  - (iii) management of law enforcement officer stress during threatening situations;
  - (iv) tactical disengagement;
  - (v) sanctity and preservation of life;
  - (vi) investigating and critiquing a law enforcement officer incident of use of force; and
  - (vii) the legal foundations and limitations on law enforcement officer authority under the Utah Constitution or laws of the state and the United States Constitution or laws of the United States.
- (c) The attorney general shall work with state and local agencies to ensure the most effective use of resources in providing training for law enforcement officers throughout the state.
- (3) The attorney general may employ staff necessary to implement the training center created under this section.

Enacted by Chapter 412, 2016 General Session

**67-5-36 Drug Disposal Program.**

- (1) As used in the section:
  - (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.
  - (b) "Department" means the Department of Environmental Quality.
  - (c) "Environmentally friendly" means a controlled substance that is rendered:
    - (i) non-retrievable, as determined by the attorney general in consultation with the department;
    - (ii) non-hazardous, as determined by the department; and
    - (iii) permissible to dispose in a landfill in a manner that does not violate state or federal law relating to surface water or groundwater.
  - (d) "Home controlled substance disposal receptacle" means a receptacle provided by the program that can be used by an individual to render a small amount of controlled substances at an individual's residence non-retrievable and environmentally friendly.
  - (e) "Non-retrievable" means the same as that term is defined in 21 C.F.R. 1300.05.
  - (f) "Program" means the Drug Disposal Program described in this section.
  - (g) "Repository" means a controlled substance disposal repository described in Subsection (3).
- (2) The attorney general may, in coordination with the department and within funds available for this purpose, administer a program, known as the Drug Disposal Program, to provide for the safe, secure, and environmentally friendly disposal of controlled substances in the state.
- (3) The attorney general and the department, in developing and implementing the program:
  - (a) may work with law enforcement agencies, pharmacies, hospitals, and other entities to ensure that one or more repositories are present in each county in the state;
  - (b) shall ensure that each repository:
    - (i) renders a controlled substance placed in the repository non-retrievable and environmentally friendly, onsite; and
    - (ii) is secure from tampering or unauthorized removal;
  - (c) may require verification that:
    - (i) a repository complies with Subsection (3)(b); and
    - (ii) a home controlled substance disposal receptacle renders a controlled substance non-retrievable and environmentally friendly;

- (d) shall ensure that the program operates in accordance with Drug Enforcement Administration rules; and
- (e) may publish, on the websites of the attorney general's office and the department:
  - (i) a list of the location of each repository in the state; and
  - (ii) if home controlled substance disposal receptacles are used as part of the program, information on how to obtain a home controlled substance disposal receptacle.
- (4) The attorney general may, instead of, or in addition to, establishing a repository in a county, establish a process for residents of the county to obtain a home controlled substance disposal receptacle.
- (5) A state or local government entity, other than the attorney general's office, the department, or a designee of the department, may not:
  - (a) regulate the disposal of a controlled substance rendered non-retrievable in a repository or home controlled substance disposal receptacle differently, or more strictly, than disposal of non-hazardous household waste;
  - (b) regulate or restrict the location of a repository or the distribution of a home controlled substance disposal receptacle; or
  - (c) otherwise take action to regulate or interfere with administration of the program.
- (6) This section does not prohibit the disposal of a controlled substance:
  - (a) in a receptacle that does not qualify as a repository if:
    - (i) the receptacle is located on the premises of an entity authorized by Drug Enforcement Administration rules to accept a controlled substance for subsequent disposal; and
    - (ii) the entity described in Subsection (6)(a)(i) ensures that the controlled substance is managed in a manner permitted by Drug Enforcement Administration rule; or
  - (b) disposed at a facility that has received the approval required under Section 19-6-108.
- (7) Unless otherwise agreed by the attorney general, an entity described in Subsection (3)(a) that permits the placement of a repository on property owned or controlled by the entity will dispose of a controlled substance placed in the repository after the controlled substance is rendered environmentally friendly.

Enacted by Chapter 443, 2020 General Session

**67-5-37 Multi-agency joint strike force -- Joint Organized Retail Crime Unit.**

- (1) The Office of the Attorney General and the Department of Public Safety shall create and coordinate the operation of a multi-agency joint strike force to combat criminal activity that may have a negative impact on the state's economy.
- (2) The attorney general and the Department of Public Safety shall invite federal, state, and local law enforcement personnel to participate in the joint strike force to more effectively utilize their combined skills, expertise, and resources.
- (3) The joint strike force shall focus the joint strike force's efforts on detecting, investigating, deterring, and eradicating criminal activity, described in Subsection (1), within the state, including organized retail crime, antitrust violations, intellectual property rights violations, gambling, and the purchase of stolen goods for the purpose of reselling the stolen goods for profit.
- (4) In conjunction with the joint strike force, the Office of the Attorney General and the Department of Public Safety shall establish the Joint Organized Retail Crime Unit for the purpose of:
  - (a) investigating, apprehending, and prosecuting individuals or entities that participate in the purchase, sale, or distribution of stolen property; and
  - (b) targeting individuals or entities that commit theft and other property crimes for financial gain.



- (5)
  - (a) The joint strike force shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee before December 1 that describes the joint strike force's activities and any recommendations for modifications to this section.
  - (b) The report described in Subsection (5)(a) shall include the number of catalytic converter thefts and arrests in Utah for the preceding calendar year, if reasonably available.

Amended by Chapter 201, 2022 General Session

**67-5-38 Missing Child Identification Program.**

- (1) As used in this section:
  - (a) "Kit" means a fingerprint and DNA identification kit that may be used to collect and store fingerprint and DNA information.
  - (b) "Program" means the Missing Child Identification Program created in this section.
- (2)
  - (a) There is created the Missing Child Identification Program to be administered by the attorney general as described in this section.
  - (b) The purpose of the program is to provide a kit to a parent or legal guardian of a kindergarten student, to be distributed by the student's elementary school, which the parent or guardian may use to collect and store a child's fingerprint and DNA information for potential use by law enforcement in the event that the child is missing.
  - (c) If the Legislature does not appropriate funds specifically for the program, the attorney general may implement the program using other available appropriations.
- (3)
  - (a) The attorney general shall provide kits to each Utah elementary school to be distributed to the parent or legal guardian of each student entering kindergarten in the elementary school.
  - (b) The attorney general shall obtain the kits in compliance with Title 63G, Chapter 6a, Utah Procurement Code.
  - (c) The kits described in Subsection (3)(a) may be delivered to an elementary school directly through the supplier of the kits.
  - (d) The State Board of Education, or the State Board of Education's designee, shall coordinate with the attorney general to determine how many kits are needed each year at each elementary school.
  - (e) An elementary school that receives a supply of kits shall offer a kit to a parent or legal guardian for a student entering kindergarten at the elementary school.
- (4) The attorney general may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the program.

Enacted by Chapter 459, 2022 General Session

**67-5-39 Sheriff Node Program.**

- (1) As used in this section:
  - (a) "Blockchain" means the same as that term is defined in Section 78B-3-112.
  - (b) "Reversible blockchain" means the same as that term is defined in Section 78B-3-112.
  - (c) "Sheriff node" means a computer that:
    - (i) is connected to a reversible blockchain;
    - (ii) is administered by the Office of the Attorney General; and

- (iii) allows the Office of the Attorney General to reverse a mistaken or fraudulent transaction upon receipt of:
  - (A) a court order issued under Section 78B-3-112; or
  - (B) an award issued in a valid and binding arbitration.
- (d) "Transaction" means the same as that term is defined in Section 78B-3-112.
- (2)
  - (a) There is created a program known as the "Sheriff Node Program" within the Office of the Attorney General to operate a sheriff node on a reversible blockchain.
  - (b) The attorney general shall administer the program with funds available for this purpose.
- (3) The attorney general shall operate the program only to reverse a transaction on a reversible blockchain upon receipt of:
  - (a) a court order issued under Section 78B-3-112; or
  - (b) an award issued in a valid and binding arbitration.
- (4) The attorney general may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the program, including to:
  - (a) establish the number of reversible blockchains for which the attorney general may administer a sheriff node;
  - (b) charge and assess fees and costs for the operation of a sheriff node on a reversible blockchain;
  - (c) establish criteria for determining the validity of an arbitration award; and
  - (d) establish other rules reasonably necessary to efficiently carry out the sheriff node program.

Enacted by Chapter 365, 2023 General Session