

ATTORNEY GENERAL AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill modifies provisions related to the duties of the attorney general.

Highlighted Provisions:

This bill:

- requires the attorney general to provide an annual performance report.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-5-1, as last amended by Laws of Utah 2013, Chapters 101 and 237

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

Section 1. Section **67-5-1** is amended to read:

67-5-1. General duties.

The attorney general shall:

- (1) perform all duties in a manner consistent with the attorney-client relationship under Section **67-5-17**;
- (2) except as provided in Sections **10-3-928** and **17-18a-403**, attend the Supreme Court



28 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
29 defend all causes to which the state or any officer, board, or commission of the state in an
30 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
31 state is interested;

32 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
33 process as necessary to execute the judgment;

34 (4) account for, and pay over to the proper officer, all money that comes into the
35 attorney general's possession that belongs to the state;

36 (5) keep a file of all cases in which the attorney general is required to appear, including
37 any documents and papers showing the court in which the cases have been instituted and tried,
38 and whether they are civil or criminal, and:

39 (a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to
40 judgment, a memorandum of the judgment and of any process issued if satisfied, and if not
41 satisfied, documentation of the return of the sheriff;

42 (b) if criminal, the nature of the crime, the mode of prosecution, the stage of
43 proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the
44 execution, if the sentence has been executed, and, if not executed, the reason for the delay or
45 prevention; and

46 (c) deliver this information to the attorney general's successor in office;

47 (6) exercise supervisory powers over the district and county attorneys of the state in all
48 matters pertaining to the duties of their offices, and from time to time require of them reports of
49 the condition of public business entrusted to their charge;

50 (7) give the attorney general's opinion in writing and without fee to the Legislature or
51 either house and to any state officer, board, or commission, and to any county attorney or
52 district attorney, when required, upon any question of law relating to their respective offices;

53 (8) when required by the public service or directed by the governor, assist any county,
54 district, or city attorney in the discharge of [his] the county, district, or city attorney's duties;

55 (9) purchase in the name of the state, under the direction of the state Board of
56 Examiners, any property offered for sale under execution issued upon judgments in favor of or
57 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
58 consideration of the purchases;

59 (10) when the property of a judgment debtor in any judgment mentioned in Subsection
60 (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
61 taking precedence of the judgment in favor of the state, redeem the property, under the
62 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
63 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
64 out of any money appropriated for these purposes;

65 (11) when in the attorney general's opinion it is necessary for the collection or
66 enforcement of any judgment, institute and prosecute on behalf of the state any action or
67 proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment
68 debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of
69 Examiners, out of any money not otherwise appropriated;

70 (12) discharge the duties of a member of all official boards of which the attorney
71 general is or may be made a member by the Utah Constitution or by the laws of the state, and
72 other duties prescribed by law;

73 (13) institute and prosecute proper proceedings in any court of the state or of the
74 United States to restrain and enjoin corporations organized under the laws of this or any other
75 state or territory from acting illegally or in excess of their corporate powers or contrary to
76 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
77 and wind up their affairs;

78 (14) institute investigations for the recovery of all real or personal property that may
79 have escheated or should escheat to the state, and for that purpose, subpoena any persons
80 before any of the district courts to answer inquiries and render accounts concerning any
81 property, examine all books and papers of any corporations, and when any real or personal
82 property is discovered that should escheat to the state, institute suit in the district court of the
83 county where the property is situated for its recovery, and escheat that property to the state;

84 (15) administer the Children's Justice Center as a program to be implemented in
85 various counties pursuant to Sections [67-5b-101](#) through [67-5b-107](#);

86 (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a,
87 Constitutional and Federalism Defense Act;

88 (17) pursue any appropriate legal action to implement the state's public lands policy
89 established in Section [63C-4a-103](#);

90 (18) investigate and prosecute violations of all applicable state laws relating to fraud in
91 connection with the state Medicaid program and any other medical assistance program

92 administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

93 (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients
94 at:

95 (a) health care facilities that receive payments under the state Medicaid program; and

96 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.

97 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; ~~and~~

98 (20) (a) report at least twice per year to the Legislative Management Committee on any
99 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

100 (i) cost the state more than \$500,000; or

101 (ii) require the state to take legally binding action that would cost more than \$500,000

102 to implement; and

103 (b) if the meeting is closed, include an estimate of the state's potential financial or other

104 legal exposure in that report[-]; and

105 (21) before the end of each calendar year, create an annual performance report for the

106 Office of the Attorney General and post the report on the attorney general's website.

Legislative Review Note

Office of Legislative Research and General Counsel