

1 **OFFICE FOR VICTIMS OF CRIME AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kyle R. Andersen**

5 Senate Sponsor: David G. Buxton

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the definition of "criminally injurious conduct" to include bigamy and
10 related crimes.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ adds bigamy and related crimes to crimes for which a victim may be awarded
14 reparations by the Office for Victims of Crime.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **63M-7-502**, as last amended by Laws of Utah 2012, Chapter 369

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

24 Section 1. Section **63M-7-502** is amended to read:

25 **63M-7-502. Definitions.**

26 As used in this chapter:

27 (1) "Accomplice" means a person who has engaged in criminal conduct as defined in

28 Section **76-2-202**.

29 (2) "Board" means the Crime Victim Reparations and Assistance Board created under
30 Section [63M-7-504](#).

31 (3) "Bodily injury" means physical pain, illness, or any impairment of physical
32 condition.

33 (4) "Claim" means:

- 34 (a) the victim's application or request for a reparations award; and
- 35 (b) the formal action taken by a victim to apply for reparations pursuant to this chapter.

36 (5) "Claimant" means any of the following claiming reparations under this chapter:

- 37 (a) a victim;
- 38 (b) a dependent of a deceased victim;
- 39 (c) a representative other than a collateral source; or
- 40 (d) the person or representative who files a claim on behalf of a victim.

41 (6) "Child" means an unemancipated person who is under 18 years of age.

42 (7) "Collateral source" means the definition as provided in Section [63M-7-513](#).

43 (8) "Contested case" means a case which the claimant contests, claiming the award was
44 either inadequate or denied, or which a county attorney, a district attorney, a law enforcement
45 officer, or other individual related to the criminal investigation proffers reasonable evidence of
46 the claimant's lack of cooperation in the prosecution of a case after an award has already been
47 given.

48 (9) (a) "Criminally injurious conduct" other than acts of war declared or not declared
49 means conduct that:

- 50 (i) is or would be subject to prosecution in this state under Section [76-1-201](#);
- 51 (ii) occurs or is attempted;
- 52 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
- 53 (iv) is punishable by fine, imprisonment, or death if the person engaging in the conduct
54 possessed the capacity to commit the conduct; and
- 55 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,

56 aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is
57 conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the
58 Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

59 (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C.
60 Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism"
61 does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.

62 (c) "Criminally injurious conduct" includes a felony violation of Section [76-7-101](#) and
63 other conduct leading to the psychological injury of a person resulting from living in a setting
64 that involves a bigamous relationship.

65 (10) "Dependent" means a natural person to whom the victim is wholly or partially
66 legally responsible for care or support and includes a child of the victim born after the victim's
67 death.

68 (11) "Dependent's economic loss" means loss after the victim's death of contributions
69 of things of economic value to the victim's dependent, not including services the dependent
70 would have received from the victim if the victim had not suffered the fatal injury, less
71 expenses of the dependent avoided by reason of victim's death.

72 (12) "Dependent's replacement services loss" means loss reasonably and necessarily
73 incurred by the dependent after the victim's death in obtaining services in lieu of those the
74 decedent would have performed for the victim's benefit if the victim had not suffered the fatal
75 injury, less expenses of the dependent avoided by reason of the victim's death and not
76 subtracted in calculating the dependent's economic loss.

77 (13) "Director" means the director of the Utah Office for Victims of Crime.

78 (14) "Disposition" means the sentencing or determination of penalty or punishment to
79 be imposed upon a person:

80 (a) convicted of a crime;

81 (b) found delinquent; or

82 (c) against whom a finding of sufficient facts for conviction or finding of delinquency

83 is made.

84 (15) "Economic loss" means economic detriment consisting only of allowable expense,
85 work loss, replacement services loss, and if injury causes death, dependent's economic loss and
86 dependent's replacement service loss. Noneconomic detriment is not loss, but economic
87 detriment is loss although caused by pain and suffering or physical impairment.

88 (16) "Elderly victim" means a person 60 years of age or older who is a victim.

89 (17) "Fraudulent claim" means a filed claim based on material misrepresentation of
90 fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds
91 for which the claimant is not eligible as provided in Section [63M-7-510](#).

92 (18) "Fund" means the Crime Victim Reparations Fund created in Section [51-9-404](#).

93 (19) "Law enforcement officer" means a law enforcement officer as defined in Section
94 [53-13-103](#).

95 (20) "Medical examination" means a physical examination necessary to document
96 criminally injurious conduct but does not include mental health evaluations for the prosecution
97 and investigation of a crime.

98 (21) "Mental health counseling" means outpatient and inpatient counseling necessitated
99 as a result of criminally injurious conduct. The definition of mental health counseling is
100 subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah
101 Administrative Rulemaking Act.

102 (22) "Misconduct" as provided in Subsection [63M-7-512\(1\)\(b\)](#) means conduct by the
103 victim which was attributable to the injury or death of the victim as provided by rules
104 promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking
105 Act.

106 (23) "Noneconomic detriment" means pain, suffering, inconvenience, physical
107 impairment, and other nonpecuniary damage, except as provided in this chapter.

108 (24) "Pecuniary loss" does not include loss attributable to pain and suffering except as
109 otherwise provided in this chapter.

110 (25) "Offender" means a person who has violated the criminal code through criminally
111 injurious conduct regardless of whether the person is arrested, prosecuted, or convicted.

112 (26) "Offense" means a violation of the criminal code.

113 (27) "Perpetrator" means the person who actually participated in the criminally
114 injurious conduct.

115 (28) "Reparations officer" means a person employed by the office to investigate claims
116 of victims and award reparations under this chapter, and includes the director when the director
117 is acting as a reparations officer.

118 (29) "Replacement service loss" means expenses reasonably and necessarily incurred in
119 obtaining ordinary and necessary services in lieu of those the injured person would have
120 performed, not for income but the benefit of the injured person or the injured person's
121 dependents if the injured person had not been injured.

122 (30) "Representative" means the victim, immediate family member, legal guardian,
123 attorney, conservator, executor, or an heir of a person but does not include service providers.

124 (31) "Restitution" means money or services an appropriate authority orders an offender
125 to pay or render to a victim of the offender's conduct.

126 (32) "Secondary victim" means a person who is traumatically affected by the criminally
127 injurious conduct subject to rules promulgated by the board pursuant to Title 63G, Chapter 3,
128 Utah Administrative Rulemaking Act.

129 (33) "Service provider" means a person or agency who provides a service to crime
130 victims for a monetary fee except attorneys as provided in Section [63M-7-524](#).

131 (34) "Utah Office for Victims of Crime" or "office" means the director, the reparations
132 and assistance officers, and any other staff employed for the purpose of carrying out the
133 provisions of this chapter.

134 (35) (a) "Victim" means a person who suffers bodily or psychological injury or death as
135 a direct result of criminally injurious conduct or of the production of pornography in violation
136 of Section [76-5b-201](#) if the person is a minor.

137 (b) "Victim" does not include a person who participated in or observed the judicial
138 proceedings against an offender unless otherwise provided by statute or rule.

139 (c) "Victim" includes a resident of this state who is injured or killed by an act of
140 terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

141 (36) "Work loss" means loss of income from work the injured victim would have
142 performed if the injured victim had not been injured and expenses reasonably incurred by the
143 injured victim in obtaining services in lieu of those the injured victim would have performed
144 for income, reduced by any income from substitute work the injured victim was capable of
145 performing but unreasonably failed to undertake.