

## HB0214S01 compared with HB0214

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Inserted text shows text that was not in HB0214 but was inserted into HB0214S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Kyle R. Andersen proposes the following substitute bill:

### OFFICE FOR VICTIMS OF CRIME AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kyle R. Andersen**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

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

##### Highlighted Provisions:

This bill:

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

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

None

##### Utah Code Sections Affected:

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AMENDS:

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

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

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

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

As used in this chapter:

- (1) "Accomplice" means a person who has engaged in criminal conduct as defined in Section 76-2-202.
- (2) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.
- (3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.
- (4) "Claim" means:
  - (a) the victim's application or request for a reparations award; and
  - (b) the formal action taken by a victim to apply for reparations pursuant to this chapter.
- (5) "Claimant" means any of the following claiming reparations under this chapter:
  - (a) a victim;
  - (b) a dependent of a deceased victim;
  - (c) a representative other than a collateral source; or
  - (d) the person or representative who files a claim on behalf of a victim.
- (6) "Child" means an unemancipated person who is under 18 years of age.
- (7) "Collateral source" means the definition as provided in Section 63M-7-513.
- (8) "Contested case" means a case which the claimant contests, claiming the award was either inadequate or denied, or which a county attorney, a district attorney, a law enforcement officer, or other individual related to the criminal investigation proffers reasonable evidence of the claimant's lack of cooperation in the prosecution of a case after an award has already been given.
- (9) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:
  - (i) is or would be subject to prosecution in this state under Section 76-1-201;

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(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the person engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

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

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

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

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

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

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

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

(a) convicted of a crime;

(b) found delinquent; or

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(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

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

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

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

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

(19) "Law enforcement officer" means a law enforcement officer as defined in Section 53-13-103.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(36) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed

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for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.