

VICTIM SERVICES AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Utah Division of Victim Services in the Office of the Attorney General.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Utah Division of Victim Services in the Office of the Attorney General;
- ▶ describes the qualifications for the director of the Division of Victim Services;
- ▶ moves the Utah Office for Victims of Crime from the governor's office to the Division of Victim Services;
- ▶ reassigns domestic violence service responsibilities from the Division of Child and Family Services to the Division of Victim Services;
- ▶ moves the oversight of the Utah Council on Victims of Crime from the governor's office to the Division of Victim Services; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

- 29 **17-16-21**, as last amended by Laws of Utah 2018, Chapter 347
- 30 **24-4-117**, as last amended by Laws of Utah 2015, Chapter 134
- 31 **35A-8-901**, as renumbered and amended by Laws of Utah 2012, Chapter 212
- 32 **36-12-7**, as last amended by Laws of Utah 2020, Chapter 343
- 33 **53-1-106**, as last amended by Laws of Utah 2019, Chapter 441
- 34 **53-6-213**, as last amended by Laws of Utah 2011, Chapter 131
- 35 **62A-4a-102**, as last amended by Laws of Utah 2019, Chapter 335
- 36 **62A-4a-103**, as last amended by Laws of Utah 2017, Chapter 323
- 37 **62A-4a-105**, as last amended by Laws of Utah 2020, Chapters 108 and 250
- 38 **62A-4a-106**, as last amended by Laws of Utah 2018, Chapter 53
- 39 **62A-4a-304**, as last amended by Laws of Utah 2008, Chapters 299 and 382
- 40 **62A-4a-412**, as last amended by Laws of Utah 2020, Chapters 193 and 258
- 41 **63A-12-100.5**, as last amended by Laws of Utah 2015, Chapter 322
- 42 **63G-2-103**, as last amended by Laws of Utah 2020, Chapter 365
- 43 **63G-7-102**, as last amended by Laws of Utah 2019, Chapter 280
- 44 **63I-1-263**, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230,
- 45 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws
- 46 of Utah 2020, Chapter 360
- 47 **63I-1-267**, as last amended by Laws of Utah 2020, Chapter 154
- 48 **64-13-14.7**, as last amended by Laws of Utah 2008, Chapter 382
- 49 **67-5-1**, as last amended by Laws of Utah 2020, Chapter 343
- 50 **76-3-201**, as last amended by Laws of Utah 2017, Chapter 304
- 51 **77-37-4**, as last amended by Laws of Utah 2018, Chapter 415
- 52 **77-37-5**, as last amended by Laws of Utah 2011, Chapter 131
- 53 **77-38-302**, as last amended by Laws of Utah 2020, Chapter 230
- 54 **78B-6-2105**, as enacted by Laws of Utah 2020, Chapter 442

55 ENACTS:

- 56 **67-5d-101**, Utah Code Annotated 1953
- 57 **67-5d-102**, Utah Code Annotated 1953
- 58 **67-5d-103**, Utah Code Annotated 1953

59 **67-5d-104**, Utah Code Annotated 1953

60 **67-5d-301**, Utah Code Annotated 1953

61 RENUMBERS AND AMENDS:

62 **67-5d-201**, (Renumbered from 63M-7-601, as last amended by Laws of Utah 2019,
63 Chapter 246)

64 **67-5d-202**, (Renumbered from 63M-7-602, as renumbered and amended by Laws of
65 Utah 2008, Chapter 382)

66 **67-5d-203**, (Renumbered from 63M-7-603, as last amended by Laws of Utah 2010,
67 Chapter 82)

68 **67-5d-204**, (Renumbered from 63M-7-604, as repealed and reenacted by Laws of Utah
69 2010, Chapter 286)

70 **67-5d-205**, (Renumbered from 63M-7-605, as renumbered and amended by Laws of
71 Utah 2008, Chapter 382)

72 **67-5d-302**, (Renumbered from 63M-7-507, as last amended by Laws of Utah 2020,
73 Chapter 149)

74 **67-5d-303**, (Renumbered from 63M-7-508, as last amended by Laws of Utah 2020,
75 Chapter 149)

76 **67-5d-304**, (Renumbered from 63M-7-503, as last amended by Laws of Utah 2020,
77 Chapter 149)

78 **67-5d-305**, (Renumbered from 63M-7-509, as last amended by Laws of Utah 2020,
79 Chapter 149)

80 **67-5d-306**, (Renumbered from 63M-7-510, as last amended by Laws of Utah 2020,
81 Chapter 149)

82 **67-5d-307**, (Renumbered from 63M-7-511, as last amended by Laws of Utah 2020,
83 Chapter 149)

84 **67-5d-308**, (Renumbered from 63M-7-511.5, as last amended by Laws of Utah 2020,
85 Chapter 149)

86 **67-5d-309**, (Renumbered from 63M-7-512, as last amended by Laws of Utah 2020,
87 Chapter 149)

88 **67-5d-310**, (Renumbered from 63M-7-513, as last amended by Laws of Utah 2020,
89 Chapter 149)

90 **67-5d-311**, (Renumbered from 63M-7-514, as last amended by Laws of Utah 2020,
91 Chapter 149)
92 **67-5d-312**, (Renumbered from 63M-7-515, as last amended by Laws of Utah 2020,
93 Chapter 149)
94 **67-5d-313**, (Renumbered from 63M-7-516, as last amended by Laws of Utah 2020,
95 Chapter 149)
96 **67-5d-314**, (Renumbered from 63M-7-517, as last amended by Laws of Utah 2020,
97 Chapter 149)
98 **67-5d-315**, (Renumbered from 63M-7-518, as last amended by Laws of Utah 2020,
99 Chapter 149)
100 **67-5d-316**, (Renumbered from 63M-7-519, as last amended by Laws of Utah 2020,
101 Chapter 149)
102 **67-5d-317**, (Renumbered from 63M-7-521, as last amended by Laws of Utah 2020,
103 Chapter 149)
104 **67-5d-318**, (Renumbered from 63M-7-521.5, as last amended by Laws of Utah 2020,
105 Chapter 149)
106 **67-5d-319**, (Renumbered from 63M-7-522, as last amended by Laws of Utah 2020,
107 Chapter 149)
108 **67-5d-320**, (Renumbered from 63M-7-523, as last amended by Laws of Utah 2020,
109 Chapter 149)
110 **67-5d-321**, (Renumbered from 63M-7-524, as last amended by Laws of Utah 2020,
111 Chapter 149)
112 **67-5d-322**, (Renumbered from 63M-7-525, as last amended by Laws of Utah 2020,
113 Chapter 149)
114 **67-5d-323**, (Renumbered from 63M-7-526, as enacted by Laws of Utah 2020, Chapter
115 230)
116 **67-5d-401**, (Renumbered from 63M-7-504, as last amended by Laws of Utah 2020,
117 Chapters 352 and 373)
118 **67-5d-402**, (Renumbered from 63M-7-506, as last amended by Laws of Utah 2020,
119 Chapter 149)
120 **67-5d-501**, (Renumbered from 67-5b-102, as last amended by Laws of Utah 2019,

121 Chapter 246)
 122 **67-5d-502**, (Renumbered from 67-5b-103, as last amended by Laws of Utah 2016,
 123 Chapter 290)
 124 **67-5d-503**, (Renumbered from 67-5b-104, as last amended by Laws of Utah 2016,
 125 Chapter 290)
 126 **67-5d-504**, (Renumbered from 67-5b-105, as last amended by Laws of Utah 2019,
 127 Chapters 246 and 349)
 128 **67-5d-505**, (Renumbered from 67-5b-107, as last amended by Laws of Utah 2008,
 129 Chapter 382)
 130 REPEALS:
 131 **63M-7-501**, as last amended by Laws of Utah 2011, Chapter 131
 132 **63M-7-502**, as last amended by Laws of Utah 2020, Chapters 149 and 230
 133 **63M-7-505**, as last amended by Laws of Utah 2020, Chapter 149
 134 **67-5b-101**, as last amended by Laws of Utah 2016, Chapter 290

135

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

137 Section 1. Section **17-16-21** is amended to read:

138 **17-16-21. Fees of county officers.**

139 (1) As used in this section, "county officer" means a county officer enumerated in
 140 Section **17-53-101** except a county recorder, a county constable, or a county sheriff.

141 (2) (a) A county officer shall collect, in advance, for exclusive county use and benefit:

142 (i) a fee established by the county legislative body under Section **17-53-211**; and

143 (ii) any other fee authorized or required by law.

144 (b) As long as the Children's Legal Defense Account is authorized by Section

145 **51-9-408**, the county clerk shall:

146 (i) assess \$10 in addition to whatever fee for a marriage license is established under
 147 authority of this section; and

148 (ii) transmit \$10 from each marriage license fee to the Division of Finance for deposit
 149 in the Children's Legal Defense Account.

150 (c) (i) As long as the [~~Division of Child and Family Services, created in Section~~

151 **62A-4a-103**, ~~has the responsibility under Section **62A-4a-105** to provide services]~~ Division of

152 Victim Services has the responsibility under Section 67-5d-103 to provide domestic violence
153 services, including temporary shelter, for victims of domestic violence, the county clerk shall:

154 (A) collect \$10 in addition to whatever fee for a marriage license is established under
155 authority of this section and in addition to the amount described in Subsection (2)(b), if an
156 applicant chooses, as provided in Subsection (2)(c)(ii), to pay the additional \$10; and

157 (B) to the extent actually paid, transmit \$10 from each marriage license fee to the
158 Division of Finance for distribution to the ~~[Division of Child and Family]~~ Division of Victim
159 Services for the operation of shelters for victims of domestic violence.

160 (ii) (A) The county clerk shall provide a method for an applicant for a marriage license
161 to choose to pay the additional \$10 referred to in Subsection (2)(c)(i).

162 (B) An applicant for a marriage license may choose not to pay the additional \$10
163 referred to in Subsection (2)(c)(i) without affecting the applicant's ability to be issued a
164 marriage license.

165 (d) If a county operates an online marriage application system, the county clerk of that
166 county:

167 (i) may assess \$20 in addition to the other fees for a marriage license established under
168 this section;

169 (ii) except as provided in Subsection (2)(d)(iii), shall transmit \$20 from the marriage
170 license fee to the state treasurer for deposit annually as follows:

171 (A) the first \$400,000 shall accrue to the Utah Marriage Commission, created in
172 Section 62A-1-120, as dedicated credits for the operation of the Utah Marriage Commission;
173 and

174 (B) proceeds in excess of \$400,000 shall be deposited into the General Fund; and

175 (iii) may not transmit \$20 from the marriage license fee to the state treasurer under this
176 Subsection (2)(d) if both individuals seeking the marriage license certify that they have
177 completed premarital counseling or education in accordance with Section 30-1-34.

178 (3) This section does not apply to a fee currently being assessed by the state but
179 collected by a county officer.

180 Section 2. Section 24-4-117 is amended to read:

181 **24-4-117. State Asset Forfeiture Grant Program.**

182 (1) There is created the State Asset Forfeiture Grant Program.

183 (2) The program shall fund crime prevention, crime victim reparations, and law
184 enforcement activities that have the purpose of:

185 (a) deterring crime by depriving criminals of the profits and proceeds of their illegal
186 activities;

187 (b) weakening criminal enterprises by removing the instrumentalities of crime;

188 (c) reducing crimes involving substance abuse by supporting the creation,
189 administration, or operation of drug court programs throughout the state;

190 (d) encouraging cooperation between local, state, and multijurisdictional law
191 enforcement agencies;

192 (e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited
193 proceeds of crime;

194 (f) increasing the equitability and accountability of the use of forfeited property used to
195 assist law enforcement in reducing and preventing crime; and

196 (g) providing aid to victims of criminally injurious conduct, as defined in Section
197 [~~63M-7-502~~] [67-5d-102](#), who may be eligible for assistance under [~~Title 63M, Chapter 7, Part~~
198 ~~5;~~] [Title 67, Chapter 5d, Part 3](#), Utah Office for Victims of Crime.

199 (3) (a) When property is forfeited under this chapter and transferred to the account,
200 upon appropriation the commission shall allocate and administer grants to state agencies, local
201 law enforcement agencies, multijurisdictional law enforcement agencies, or political
202 subdivisions of the state in compliance with this section and to further the program purposes
203 under Subsection (2).

204 (b) The commission may retain up to 3% of the annual appropriation from the account
205 to pay for administrative costs incurred by the commission, including salary and benefits,
206 equipment, supplies, or travel costs that are directly related to the administration of the
207 program.

208 (4) Agencies or political subdivisions shall apply for an award from the program by
209 completing and submitting forms specified by the commission.

210 (5) In granting the awards, the commission shall ensure that the amount of each award
211 takes into consideration the:

212 (a) demonstrated needs of the agency;

213 (b) demonstrated ability of the agency to appropriately use the award;

214 (c) degree to which the agency's need is offset through the agency's participation in
215 federal equitable sharing or through other federal and state grant programs; and

216 (d) agency's cooperation with other state and local agencies and task forces.

217 (6) Applying agencies or political subdivisions shall demonstrate compliance with all
218 reporting and policy requirements applicable under this chapter and under Title 63M, Chapter
219 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award recipient.

220 (7) (a) Recipient law enforcement agencies may only use award money after approval
221 by the agency's legislative body.

222 (b) The award money is nonlapsing.

223 (8) A recipient state agency, local law enforcement agency, multijurisdictional law
224 enforcement agency, or political subdivision shall use awards only for law enforcement
225 purposes as described in this section or for victim reparations as described in Subsection (2)(g),
226 and only as these purposes are specified by the agency or political subdivision in its application
227 for the award.

228 (9) Permissible law enforcement purposes for which award money may be used
229 include:

230 (a) controlled substance interdiction and enforcement activities;

231 (b) drug court programs;

232 (c) activities calculated to enhance future law enforcement investigations;

233 (d) law enforcement training that includes:

234 (i) implementation of the Fourth Amendment to the United States Constitution and
235 Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's
236 right of due process;

237 (ii) protection of the rights of innocent property holders; and

238 (iii) the Tenth Amendment to the United States Constitution regarding states'
239 sovereignty and the states' reserved rights;

240 (e) law enforcement or detention facilities;

241 (f) law enforcement operations or equipment that are not routine costs or operational
242 expenses;

243 (g) drug, gang, or crime prevention education programs that are sponsored in whole or
244 in part by the law enforcement agency or its legislative body;

- 245 (h) matching funds for other state or federal law enforcement grants; and
246 (i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture
247 actions.
- 248 (10) Law enforcement purposes for which award money may not be granted or used
249 include:
- 250 (a) payment of salaries, retirement benefits, or bonuses to any person;
251 (b) payment of expenses not related to law enforcement;
252 (c) uses not specified in the agency's award application;
253 (d) uses not approved by the agency's legislative body;
254 (e) payments, transfers, or pass-through funding to entities other than law enforcement
255 agencies; or
256 (f) uses, payments, or expenses that are not within the scope of the agency's functions.

257 Section 3. Section **35A-8-901** is amended to read:

258 **35A-8-901. Assistance to domestic violence shelters -- Rulemaking authority.**

259 (1) (a) [~~The Division of Child and Family Services within the Department of Human~~
260 ~~Services~~] The Division of Victim Services within the Office of the Attorney General has
261 statutory responsibility to provide violence services, including temporary shelter, to victims of
262 domestic violence under the provisions of [~~Sections 62A-4a-101 and 62A-4a-105~~] Section
263 67-5d-105.

264 (b) The division may assist the [~~Division of Child and Family~~] Division of Victim
265 Services by providing for the development, construction, and improvement of shelters for
266 victims of domestic violence, as described in Section 77-36-1, through loans and grants to
267 nonprofit and governmental entities.

268 (2) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative
269 Rulemaking Act, make rules establishing:

- 270 (a) procedures for applying for loans and grants;
271 (b) criteria for awarding loans and grants; and
272 (c) requirements for the repayment of loans.
- 273 (3) The division may appoint an advisory panel to:
- 274 (a) assist the division in developing rules under Subsection (2); and
275 (b) recommend how available funds should be disbursed.

276 (4) The division shall make loans and grants with money specifically appropriated for
277 that purpose.

278 (5) The division shall coordinate with the [~~Division of Child and Family~~] Division of
279 Victim Services in complying with the provisions of this section.

280 Section 4. Section **36-12-7** is amended to read:

281 **36-12-7. Legislative Management Committee -- Duties -- Litigation.**

282 (1) The Senate or House Management Committee shall:

283 (a) receive legislative resolutions directing studies on legislative matters and may
284 assign these studies to the appropriate interim committee of its house;

285 (b) assign to interim committees of the same house, matters of legislative study not
286 specifically contained in a legislative resolution but considered significant to the welfare of the
287 state;

288 (c) receive requests from interim committees of its house for matters to be included on
289 the study agenda of the requesting committee. Appropriate bases for denying a study include
290 inadequate funding to properly complete the study or duplication of the work;

291 (d) establish a budget account for interim committee day as designated by Legislative
292 Management Committee and for all other legislative committees of its house and allocate to
293 that account sufficient funds to adequately provide for the work of the committee; and

294 (e) designate the time and place for periodic meetings of the interim committees.

295 (2) To maximize the use of legislators' available time, the Senate and House
296 Management Committees should attempt to schedule the committee meetings of their
297 respective houses during the same one or two-day period each month. This does not preclude
298 an interim committee from meeting at any time it determines necessary to complete its
299 business.

300 (3) The Legislative Management Committee shall:

301 (a) employ, after recommendation of the appropriate subcommittee of the Legislative
302 Management Committee, without regard to political affiliation, and subject to approval of a
303 majority vote of both houses, persons qualified for the positions of director of the Office of
304 Legislative Research and General Counsel, legislative fiscal analyst, legislative general
305 counsel, and legislative auditor general. Appointments to these positions shall be for terms of
306 six years subject to renewal under the same procedure as the original appointment. A person

307 may be removed from any of these offices before the expiration of the person's term only by a
308 majority vote of both houses of the Legislature or by a two-thirds vote of the management
309 committee for such causes as inefficiency, incompetency, failure to maintain skills or adequate
310 performance levels, insubordination, misfeasance, malfeasance, or nonfeasance in office. If a
311 vacancy occurs in any of these offices after adjournment of the Legislature, the committee shall
312 appoint an individual to fill the vacancy until such time as the person is approved or rejected by
313 majority vote of the next session of the Legislature;

314 (b) develop policies for personnel management, compensation, and training of all
315 professional legislative staff;

316 (c) develop a policy within the limits of legislative appropriation for the authorization
317 and payment to legislators of compensation and travel expenses, including out-of-state travel;

318 (d) approve special study budget requests of the legislative directors; and

319 (e) assist the speaker-elect of the House of Representatives and the president-elect of
320 the Senate, upon selection by their majority party caucus, to organize their respective houses of
321 the Legislature and assume the direction of the operation of the Legislature in the forthcoming
322 annual general session.

323 (4) (a) The Legislature delegates to the Legislative Management Committee the
324 authority, by means of a majority vote of the committee, to direct the legislative general
325 counsel in matters involving the Legislature's participation in litigation.

326 (b) The Legislature has an unconditional right to intervene in a state court action and
327 may provide evidence or argument, written or oral, if a party to that court action challenges:

328 (i) the constitutionality of a state statute;

329 (ii) the validity of legislation; or

330 (iii) any action of the Legislature.

331 (c) In a federal court action that challenges the constitutionality of a state statute, the
332 validity of legislation, or any action of the Legislature, the Legislature may seek to intervene, to
333 file an amicus brief, or to present argument in accordance with federal rules of procedure.

334 (d) Intervention by the Legislature pursuant to Subsection (4)(b) or (c) does not limit
335 the duty of the attorney general to appear and prosecute legal actions or defend state agencies,
336 officers or employees as otherwise provided by law.

337 (e) In any action in which the Legislature intervenes or participates, legislative counsel

338 and the attorney general shall function independently from each other in the representation of
339 their respective clients.

340 (f) The attorney general shall notify the legislative general counsel of a claim in
341 accordance with Subsection [~~67-5-1(25)~~] 67-5-1(24).

342 Section 5. Section **53-1-106** is amended to read:

343 **53-1-106. Department duties -- Powers.**

344 (1) In addition to the responsibilities contained in this title, the department shall:

345 (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic
346 Code, including:

347 (i) setting performance standards for towing companies to be used by the department,
348 as required by Section 41-6a-1406; and

349 (ii) advising the Department of Transportation regarding the safe design and operation
350 of school buses, as required by Section 41-6a-1304;

351 (b) make rules to establish and clarify standards pertaining to the curriculum and
352 teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

353 (c) aid in enforcement efforts to combat drug trafficking;

354 (d) meet with the Department of Technology Services to formulate contracts, establish
355 priorities, and develop funding mechanisms for dispatch and telecommunications operations;

356 (e) provide assistance to the Crime Victim Reparations Board and the Utah Office for
357 Victims of Crime in conducting research or monitoring victims' programs, as required by

358 [~~Section 63M-7-505~~] Sections 67-5d-301 and 67-5d-402;

359 (f) develop sexual assault exam protocol standards in conjunction with the Utah
360 Hospital Association;

361 (g) engage in emergency planning activities, including preparation of policy and
362 procedure and rulemaking necessary for implementation of the federal Emergency Planning
363 and Community Right to Know Act of 1986, as required by Section 53-2a-702;

364 (h) implement the provisions of Section 53-2a-402, the Emergency Management
365 Assistance Compact;

366 (i) ensure that any training or certification required of a public official or public
367 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
368 22, State Training and Certification Requirements, if the training or certification is required:

369 (i) under this title;
370 (ii) by the department; or
371 (iii) by an agency or division within the department; and
372 (j) employ a law enforcement officer as a public safety liaison to be housed at the State
373 Board of Education who shall work with the State Board of Education to:

374 (i) support training with relevant state agencies for school resource officers as
375 described in Section 53G-8-702;
376 (ii) coordinate the creation of model policies and memorandums of understanding for a
377 local education agency and a local law enforcement agency; and
378 (iii) ensure cooperation between relevant state agencies, a local education agency, and
379 a local law enforcement agency to foster compliance with disciplinary related statutory
380 provisions, including Sections 53E-3-516 and 53G-8-211.

381 (2) (a) The department shall establish a schedule of fees as required or allowed in this
382 title for services provided by the department.

383 (b) All fees not established in statute shall be established in accordance with Section
384 63J-1-504.

385 (3) The department may establish or contract for the establishment of an Organ
386 Procurement Donor Registry in accordance with Section 26-28-120.

387 Section 6. Section 53-6-213 is amended to read:

388 **53-6-213. Appropriations from reparation fund.**

389 (1) The Legislature shall appropriate from the fund established in [~~Title 63M, Chapter~~
390 ~~7, Part 5;~~ Title 67, Chapter 5d, Part 3, Utah Office for Victims of Crime, to the division, funds
391 for training of law enforcement officers in the state.

392 (2) The department shall make an annual report to the Legislature, which includes the
393 amount received during the previous fiscal year.

394 Section 7. Section 62A-4a-102 is amended to read:

395 **62A-4a-102. Rulemaking responsibilities of division.**

396 (1) The Division of Child and Family Services, created in Section 62A-4a-103, is
397 responsible for establishing division rules under Title 63G, Chapter 3, Utah Administrative
398 Rulemaking Act, in accordance with the requirements of this chapter and Title 78A, Chapter 6,
399 Juvenile Court Act, regarding abuse, neglect, and dependency proceedings[~~and domestic~~

400 ~~violence services~~]. The division is responsible to see that the legislative purposes for the
401 division are carried out.

402 (2) The division shall:

403 (a) approve fee schedules for programs within the division;

404 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
405 establish rules to ensure that private citizens, consumers, foster parents, private contract
406 providers, allied state and local agencies, and others are provided with an opportunity to
407 comment and provide input regarding any new rule or proposed revision of an existing rule;
408 and

409 (c) provide a mechanism for:

410 (i) systematic and regular review of existing rules, including an annual review of all
411 division rules to ensure that rules comply with the Utah Code; and

412 (ii) consideration of rule changes proposed by the persons and agencies described in
413 Subsection (2)(b).

414 (3) (a) The division shall establish rules for the determination of eligibility for services
415 offered by the division in accordance with this chapter.

416 (b) The division may, by rule, establish eligibility standards for consumers.

417 (4) The division shall adopt and maintain rules regarding placement for adoption or
418 foster care that are consistent with, and no more restrictive than, applicable statutory
419 provisions.

420 Section 8. Section **62A-4a-103** is amended to read:

421 **62A-4a-103. Division -- Creation -- Purpose.**

422 (1) (a) There is created the Division of Child and Family Services within the
423 department, under the administration and general supervision of the executive director.

424 (b) The division is the child, youth, and family services authority of the state and has
425 all functions, powers, duties, rights, and responsibilities created in accordance with this
426 chapter, except those assumed by the department.

427 (2) (a) The primary purpose of the division is to provide child welfare services.

428 (b) The division shall, when possible and appropriate, provide in-home services for the
429 preservation of families in an effort to protect the child from the trauma of separation from the
430 child's family, protect the integrity of the family, and the constitutional rights of parents. In

431 keeping with its ultimate goal and purpose of protecting children, however, when a child's
432 welfare is endangered or reasonable efforts to maintain or reunify a child with the child's family
433 have failed, the division shall act in a timely fashion in accordance with the requirements of
434 this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, to
435 provide the child with a stable, permanent environment.

436 ~~[(3) The division shall also provide domestic violence services in accordance with~~
437 ~~federal law.]~~

438 Section 9. Section **62A-4a-105** is amended to read:

439 **62A-4a-105. Division responsibilities.**

440 (1) The division shall:

441 (a) administer services to minors and families, including:

442 (i) child welfare services; and

443 ~~[(ii) domestic violence services; and]~~

444 ~~[(iii)]~~ (ii) all other responsibilities that the Legislature or the executive director may
445 assign to the division;

446 (b) provide the following services:

447 (i) financial and other assistance to an individual adopting a child with special needs
448 under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the
449 child as a legal ward of the state;

450 (ii) non-custodial and in-home services, including:

451 (A) services designed to prevent family break-up; and

452 (B) family preservation services;

453 (iii) reunification services to families whose children are in substitute care in
454 accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

455 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse
456 or neglect of a child in that family;

457 (v) shelter care in accordance with the requirements of this chapter and Title 78A,
458 Chapter 6, Juvenile Court Act;

459 ~~[(vi) domestic violence services, in accordance with the requirements of federal law;]~~

460 ~~[(vii) protective services to victims of domestic violence, as defined in Section~~

461 ~~77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A,~~

462 Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;]

463 [(viii)] (vi) substitute care for dependent, abused, and neglected children; and

464 [(ix) services for minors who are victims of human trafficking or human smuggling as

465 described in Sections ~~76-5-308~~ through ~~76-5-310~~ or who have engaged in prostitution or sexual

466 solicitation as defined in Sections ~~76-10-1302~~ and ~~76-10-1313~~; and]

467 [(x)] (vii) training for staff and providers involved in the administration and delivery of

468 services offered by the division in accordance with this chapter;

469 (c) establish standards for all:

470 (i) contract providers of out-of-home care for minors and families; and

471 (ii) facilities that provide substitute care for dependent, abused, and neglected children

472 placed in the custody of the division; ~~and]~~

473 [(iii) direct or contract providers of domestic violence services described in Subsection

474 ~~(1)(b)(vi)~~];

475 (d) have authority to:

476 (i) contract with a private, nonprofit organization to recruit and train foster care

477 families and child welfare volunteers in accordance with Section ~~62A-4a-107.5~~; and

478 (ii) approve facilities that meet the standards established under Subsection (1)(c) to

479 provide substitute care for dependent, abused, and neglected children placed in the custody of

480 the division;

481 (e) cooperate with the federal government in the administration of child welfare ~~and~~

482 ~~domestic violence programs~~] and other human service activities assigned by the department;

483 (f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of

484 division records to the same extent that the division is required to protect division records,

485 cooperate with and share all appropriate information in the division's possession regarding an

486 Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child

487 with the Indian tribe that is affiliated with the Indian child;

488 (g) in accordance with Subsection (2)(a), promote and enforce state and federal laws

489 enacted for the protection of abused, neglected, and dependent children, in accordance with the

490 requirements of this chapter, unless administration is expressly vested in another division or

491 department of the state;

492 (h) cooperate with the Workforce Development Division within the Department of

493 Workforce Services in meeting the social and economic needs of an individual who is eligible
494 for public assistance;

495 (i) compile relevant information, statistics, and reports on child and family service
496 matters in the state;

497 (j) prepare and submit to the department, the governor, and the Legislature reports of
498 the operation and administration of the division in accordance with the requirements of
499 Sections [62A-4a-117](#) and [62A-4a-118](#);

500 [~~(k)~~] ~~within appropriations from the Legislature, provide or contract for a variety of~~
501 ~~domestic violence services and treatment methods;~~]

502 ~~(k)~~ (k) ensure regular, periodic publication, including electronic publication, regarding
503 the number of children in the custody of the division who:

504 (i) have a permanency goal of adoption; or

505 (ii) have a final plan of termination of parental rights, pursuant to Section [78A-6-314](#),
506 and promote adoption of those children;

507 ~~(m)~~ (l) subject to Subsection (2)(b), refer an individual receiving services from the
508 division to the local substance abuse authority or other private or public resource for a
509 court-ordered drug screening test;

510 ~~(m)~~ (m) report before November 30, 2020, and every third year thereafter, to the
511 Social Services Appropriations Subcommittee regarding:

512 (i) the daily reimbursement rate that is provided to licensed foster parents based on
513 level of care;

514 (ii) the amount of money spent on daily reimbursements for licensed foster parents in
515 the state during the previous fiscal year; and

516 (iii) any recommended changes to the division's budget to support the daily
517 reimbursement rates described in Subsection ~~(1)(n)(i)~~ (1)(m)(i); and

518 ~~(o)~~ (n) perform other duties and functions required by law.

519 (2) (a) In carrying out the requirements of Subsection (1)(g), the division shall:

520 (i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and
521 with all public and private licensed child welfare agencies and institutions to develop and
522 administer a broad range of services and support;

523 (ii) take the initiative in all matters involving the protection of abused or neglected

524 children, if adequate provisions have not been made or are not likely to be made; and

525 (iii) make expenditures necessary for the care and protection of the children described
526 in this Subsection (2)(a), within the division's budget.

527 (b) When an individual is referred to a local substance abuse authority or other private
528 or public resource for court-ordered drug screening under Subsection ~~[(1)(m)]~~ (1)(l), the court
529 shall order the individual to pay all costs of the tests unless:

530 (i) the cost of the drug screening is specifically funded or provided for by other federal
531 or state programs;

532 (ii) the individual is a participant in a drug court; or

533 (iii) the court finds that the individual is impecunious.

534 (3) Except to the extent provided by rule, the division is not responsible for
535 investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

536 (4) The division may not require a parent who has a child in the custody of the division
537 to pay for some or all of the cost of any drug testing the parent is required to undergo.

538 Section 10. Section **62A-4a-106** is amended to read:

539 **62A-4a-106. Services provided by division.**

540 (1) The division may provide, directly or through contract, services that include the
541 following:

542 (a) adoptions;

543 (b) day care for children;

544 (c) out-of-home placements for minors;

545 (d) health-related services;

546 (e) homemaking services;

547 (f) home management services;

548 (g) protective services for minors; and

549 (h) transportation services~~;~~ and].

550 ~~[(i) domestic violence services.]~~

551 (2) The division shall monitor services provided directly by the division or through
552 contract to ensure compliance with applicable law and rule.

553 (3) When the division provides a service through a private contract, not including a
554 foster parent placement, the division shall post the name of the service provider on the

555 division's website.

556 (4) Unless a parent or guardian of a child who is adopted from the custody of the
557 division expressly requests otherwise, the division may not, solely on the basis that the parent
558 or guardian contacts the division regarding services or requests services from the division:

- 559 (a) remove or facilitate the removal of a child from the child's home;
- 560 (b) file a petition for removal of a child from the child's home;
- 561 (c) file a petition for a child protective order;
- 562 (d) make a supported finding;
- 563 (e) seek a substantiated finding;
- 564 (f) file a petition alleging that a child is abused, neglected, dependent, or abandoned; or
- 565 (g) file a petition for termination of parental rights.

566 (5) (a) The division shall, to the extent that sufficient funds are available, use out-of-
567 home funds or division-designated post-adopt funds to provide services to a child who is
568 adopted from the custody of the division, without requiring that a parent terminate parental
569 rights, or that a parent or legal guardian of the child transfer or surrender custodial rights, in
570 order to receive the services.

571 (b) The division may not require, request, or recommend that a parent terminate
572 parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to
573 receive services, using out-of-home funds, for a child who is adopted from the custody of the
574 division.

575 (6) (a) As used in this Subsection (6), "vendor services" means services that a person
576 provides under contract with the division.

577 (b) If a parent or guardian of a child who is adopted from the custody of the division
578 requests vendor services from the division, the division shall refer the parent or guardian to a
579 provider of vendor services, at the parent's or guardian's expense, if:

580 (i) (A) the parent, guardian, or child is not eligible to receive the vendor services from
581 the division; or

582 (B) the division does not have sufficient funds to provide the services to the parent,
583 guardian, or child;

584 (ii) the parent, guardian, or child does not have insurance or other funds available to
585 receive the services without the referral; and

586 (iii) the parent or guardian desires the referral.

587 (c) If the division awards, extends, or renews a contract with a vendor for vendor
588 services, the division shall include in the contract a requirement that a vendor to whom the
589 division makes a referral under Subsection (6)(b):

590 (i) provide services to the parent, guardian, or child at a rate that does not exceed the
591 rate that the vendor charges the division for the services; and

592 (ii) may not charge the parent, guardian, or child any fee that the vendor does not
593 charge the division.

594 Section 11. Section **62A-4a-304** is amended to read:

595 **62A-4a-304. Contracts for services.**

596 (1) (a) Contracts for services to prevent child abuse and neglect shall be awarded on
597 the basis of probability of success, based in part on sound research data.

598 (b) Each contract entered into by the director under Section [62A-4a-303](#) shall contain a
599 provision for the evaluation of services provided under the contract.

600 (2) Contract funds awarded for the treatment of victims of abuse and neglect are not a
601 collateral source as ~~[described]~~ defined in Section [[63M-7-502](#)] [67-5d-102](#).

602 Section 12. Section **62A-4a-412** is amended to read:

603 **62A-4a-412. Reports, information, and referrals confidential.**

604 (1) Except as otherwise provided in this chapter, reports made under this part, as well
605 as any other information in the possession of the division obtained as the result of a report are
606 private, protected, or controlled records under Title 63G, Chapter 2, Government Records
607 Access and Management Act, and may only be made available to:

608 (a) a police or law enforcement agency investigating a report of known or suspected
609 abuse or neglect, including members of a child protection unit;

610 (b) a physician who reasonably believes that a child may be the subject of abuse or
611 neglect;

612 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor
613 who is the subject of a report;

614 (d) a contract provider that has a written contract with the division to render services to
615 a minor who is the subject of a report;

616 (e) except as provided in Subsection [63G-2-202](#)(10), a subject of the report, the natural

617 parents of the child, and the guardian ad litem;

618 (f) a court, upon a finding that access to the records may be necessary for the
619 determination of an issue before the court, provided that in a divorce, custody, or related
620 proceeding between private parties, the record alone is:

621 (i) limited to objective or undisputed facts that were verified at the time of the
622 investigation; and

623 (ii) devoid of conclusions drawn by the division or any of the division's workers on the
624 ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or
625 neglect of another person;

626 (g) an office of the public prosecutor or its deputies in performing an official duty;

627 (h) a person authorized by a Children's Justice Center, for the purposes described in
628 Section [~~67-5b-102~~] [67-5d-501](#);

629 (i) a person engaged in bona fide research, when approved by the director of the
630 division, if the information does not include names and addresses;

631 (j) the State Board of Education, acting on behalf of itself or on behalf of a local
632 education agency, as defined in Section [63J-5-102](#), for the purpose of evaluating whether an
633 individual should be permitted to obtain or retain a license as an educator or serve as an
634 employee or volunteer in a school, limited to information with substantiated or supported
635 findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug
636 offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against
637 the Person, and with the understanding that the office must provide the subject of a report
638 received under Subsection (1)(k) with an opportunity to respond to the report before making a
639 decision concerning licensure or employment;

640 (k) any person identified in the report as a perpetrator or possible perpetrator of abuse
641 or neglect, after being advised of the screening prohibition in Subsection (2);

642 (l) except as provided in Subsection [63G-2-202](#)(10), a person filing a petition for a
643 child protective order on behalf of a child who is the subject of the report;

644 (m) a licensed child-placing agency or person who is performing a preplacement
645 adoptive evaluation in accordance with the requirements of Sections [78B-6-128](#) and
646 [78B-6-130](#);

647 (n) an Indian tribe to:

648 (i) certify or license a foster home;
649 (ii) render services to a subject of a report; or
650 (iii) investigate an allegation of abuse, neglect, or dependency; or
651 (o) the Division of Substance Abuse and Mental Health, the Department of Health, or a
652 local substance abuse authority, described in Section 17-43-201, for the purpose of providing
653 substance abuse treatment to a pregnant woman, or the services described in Subsection
654 62A-15-103(2)(o).

655 (2) (a) A person, unless listed in Subsection (1), may not request another person to
656 obtain or release a report or any other information in the possession of the division obtained as
657 a result of the report that is available under Subsection (1)(k) to screen for potential
658 perpetrators of abuse or neglect.

659 (b) A person who requests information knowing that the request is a violation of
660 Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

661 (3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division
662 and law enforcement officials shall ensure the anonymity of the person or persons making the
663 initial report and any others involved in its subsequent investigation.

664 (b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but
665 including this chapter and Title 63G, Chapter 2, Government Records Access and Management
666 Act, when the division makes a report or other information in the division's possession
667 available under Subsection (1)(e) to a subject of the report or a parent of a child, the division
668 shall remove from the report or other information only the names, addresses, and telephone
669 numbers of individuals or specific information that could:

- 670 (i) identify the referent;
- 671 (ii) impede a criminal investigation; or
- 672 (iii) endanger a person's safety.

673 (4) Any person who [~~wilfully~~] willfully permits, or aides and abets the release of data
674 or information obtained as a result of this part, in the possession of the division or contained on
675 any part of the Management Information System, in violation of this part or Sections
676 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

677 (5) The physician-patient privilege is not a ground for excluding evidence regarding a
678 child's injuries or the cause of those injuries, in any proceeding resulting from a report made in

679 good faith pursuant to this part.

680 (6) A child-placing agency or person who receives a report in connection with a
681 preplacement adoptive evaluation pursuant to Sections [78B-6-128](#) and [78B-6-130](#):

682 (a) may provide this report to the person who is the subject of the report; and

683 (b) may provide this report to a person who is performing a preplacement adoptive
684 evaluation in accordance with the requirement of Sections [78B-6-128](#) and [78B-6-130](#), or to a
685 licensed child-placing agency or to an attorney seeking to facilitate an adoption.

686 Section 13. Section [63A-12-100.5](#) is amended to read:

687 **[63A-12-100.5](#). Definitions.**

688 (1) Except as provided under Subsection (2), the definitions in Section [63G-2-103](#)
689 apply to this chapter.

690 (2) As used in this chapter:

691 (a) "division" or "state archives" means the Division of Archives and Records Service;
692 and

693 (b) "record" means:

694 (i) the same as that term is defined in Section [63G-2-103](#); or

695 (ii) a video or audio recording of an interview, or a transcript of the video or audio
696 recording, that is conducted at a Children's Justice Center established under Section
697 [~~67-5b-102~~] [67-5d-501](#), the release of which is governed by Section [77-37-4](#).

698 Section 14. Section [63G-2-103](#) is amended to read:

699 **[63G-2-103](#). Definitions.**

700 As used in this chapter:

701 (1) "Audit" means:

702 (a) a systematic examination of financial, management, program, and related records
703 for the purpose of determining the fair presentation of financial statements, adequacy of
704 internal controls, or compliance with laws and regulations; or

705 (b) a systematic examination of program procedures and operations for the purpose of
706 determining their effectiveness, economy, efficiency, and compliance with statutes and
707 regulations.

708 (2) "Chronological logs" mean the regular and customary summary records of law
709 enforcement agencies and other public safety agencies that show:

710 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
711 and

712 (b) any arrests or jail bookings made by the agency.

713 (3) "Classification," "classify," and their derivative forms mean determining whether a
714 record series, record, or information within a record is public, private, controlled, protected, or
715 exempt from disclosure under Subsection [63G-2-201](#)(3)(b).

716 (4) (a) "Computer program" means:

717 (i) a series of instructions or statements that permit the functioning of a computer
718 system in a manner designed to provide storage, retrieval, and manipulation of data from the
719 computer system; and

720 (ii) any associated documentation and source material that explain how to operate the
721 computer program.

722 (b) "Computer program" does not mean:

723 (i) the original data, including numbers, text, voice, graphics, and images;

724 (ii) analysis, compilation, and other manipulated forms of the original data produced by
725 use of the program; or

726 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
727 algorithms contained in the program, that would be used if the manipulated forms of the
728 original data were to be produced manually.

729 (5) (a) "Contractor" means:

730 (i) any person who contracts with a governmental entity to provide goods or services
731 directly to a governmental entity; or

732 (ii) any private, nonprofit organization that receives funds from a governmental entity.

733 (b) "Contractor" does not mean a private provider.

734 (6) "Controlled record" means a record containing data on individuals that is controlled
735 as provided by Section [63G-2-304](#).

736 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
737 governmental entity's familiarity with a record series or based on a governmental entity's
738 review of a reasonable sample of a record series, the primary classification that a majority of
739 records in a record series would be given if classified and the classification that other records
740 typically present in the record series would be given if classified.

741 (8) "Elected official" means each person elected to a state office, county office,
742 municipal office, school board or school district office, local district office, or special service
743 district office, but does not include judges.

744 (9) "Explosive" means a chemical compound, device, or mixture:

745 (a) commonly used or intended for the purpose of producing an explosion; and

746 (b) that contains oxidizing or combustive units or other ingredients in proportions,
747 quantities, or packing so that:

748 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
749 compound or mixture may cause a sudden generation of highly heated gases; and

750 (ii) the resultant gaseous pressures are capable of:

751 (A) producing destructive effects on contiguous objects; or

752 (B) causing death or serious bodily injury.

753 (10) "Government audit agency" means any governmental entity that conducts an audit.

754 (11) (a) "Governmental entity" means:

755 (i) executive department agencies of the state, the offices of the governor, lieutenant
756 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
757 the Board of Examiners, the National Guard, the Career Service Review Office, the State
758 Board of Education, the Utah Board of Higher Education, and the State Archives;

759 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
760 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
761 committees, except any political party, group, caucus, or rules or sifting committee of the
762 Legislature;

763 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar
764 administrative units in the judicial branch;

765 (iv) any state-funded institution of higher education or public education; or

766 (v) any political subdivision of the state, but, if a political subdivision has adopted an
767 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
768 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
769 as specified in any other section of this chapter that specifically refers to political subdivisions.

770 (b) "Governmental entity" also means:

771 (i) every office, agency, board, bureau, committee, department, advisory board, or

772 commission of an entity listed in Subsection (11)(a) that is funded or established by the
773 government to carry out the public's business;

774 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
775 undertaking;

776 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

777 (iv) an association as defined in Section 53G-7-1101;

778 (v) the Utah Independent Redistricting Commission; and

779 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or
780 more law enforcement officers, as defined in Section 53-13-103.

781 (c) "Governmental entity" does not include the Utah Educational Savings Plan created
782 in Section 53B-8a-103.

783 (12) "Gross compensation" means every form of remuneration payable for a given
784 period to an individual for services provided including salaries, commissions, vacation pay,
785 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
786 similar benefit received from the individual's employer.

787 (13) "Individual" means a human being.

788 (14) (a) "Initial contact report" means an initial written or recorded report, however
789 titled, prepared by peace officers engaged in public patrol or response duties describing official
790 actions initially taken in response to either a public complaint about or the discovery of an
791 apparent violation of law, which report may describe:

792 (i) the date, time, location, and nature of the complaint, the incident, or offense;

793 (ii) names of victims;

794 (iii) the nature or general scope of the agency's initial actions taken in response to the
795 incident;

796 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

797 (v) the name, address, and other identifying information about any person arrested or
798 charged in connection with the incident; or

799 (vi) the identity of the public safety personnel, except undercover personnel, or
800 prosecuting attorney involved in responding to the initial incident.

801 (b) Initial contact reports do not include follow-up or investigative reports prepared
802 after the initial contact report. However, if the information specified in Subsection (14)(a)

803 appears in follow-up or investigative reports, it may only be treated confidentially if it is
804 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

805 (15) "Legislative body" means the Legislature.

806 (16) "Notice of compliance" means a statement confirming that a governmental entity
807 has complied with an order of the State Records Committee.

808 (17) "Person" means:

809 (a) an individual;

810 (b) a nonprofit or profit corporation;

811 (c) a partnership;

812 (d) a sole proprietorship;

813 (e) other type of business organization; or

814 (f) any combination acting in concert with one another.

815 (18) "Private provider" means any person who contracts with a governmental entity to
816 provide services directly to the public.

817 (19) "Private record" means a record containing data on individuals that is private as
818 provided by Section 63G-2-302.

819 (20) "Protected record" means a record that is classified protected as provided by
820 Section 63G-2-305.

821 (21) "Public record" means a record that is not private, controlled, or protected and that
822 is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

823 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
824 card, tape, recording, electronic data, or other documentary material regardless of physical form
825 or characteristics:

826 (i) that is prepared, owned, received, or retained by a governmental entity or political
827 subdivision; and

828 (ii) where all of the information in the original is reproducible by photocopy or other
829 mechanical or electronic means.

830 (b) "Record" does not mean:

831 (i) a personal note or personal communication prepared or received by an employee or
832 officer of a governmental entity:

833 (A) in a capacity other than the employee's or officer's governmental capacity; or

- 834 (B) that is unrelated to the conduct of the public's business;
- 835 (ii) a temporary draft or similar material prepared for the originator's personal use or
836 prepared by the originator for the personal use of an individual for whom the originator is
837 working;
- 838 (iii) material that is legally owned by an individual in the individual's private capacity;
- 839 (iv) material to which access is limited by the laws of copyright or patent unless the
840 copyright or patent is owned by a governmental entity or political subdivision;
- 841 (v) proprietary software;
- 842 (vi) junk mail or a commercial publication received by a governmental entity or an
843 official or employee of a governmental entity;
- 844 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
845 of a library open to the public;
- 846 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
847 of a library open to the public, regardless of physical form or characteristics of the material;
- 848 (ix) a daily calendar or other personal note prepared by the originator for the
849 originator's personal use or for the personal use of an individual for whom the originator is
850 working;
- 851 (x) a computer program that is developed or purchased by or for any governmental
852 entity for its own use;
- 853 (xi) a note or internal memorandum prepared as part of the deliberative process by:
854 (A) a member of the judiciary;
855 (B) an administrative law judge;
856 (C) a member of the Board of Pardons and Parole; or
857 (D) a member of any other body, other than an association or appeals panel as defined
858 in Section [53G-7-1101](#), charged by law with performing a quasi-judicial function;
- 859 (xii) a telephone number or similar code used to access a mobile communication
860 device that is used by an employee or officer of a governmental entity, provided that the
861 employee or officer of the governmental entity has designated at least one business telephone
862 number that is a public record as provided in Section [63G-2-301](#);
- 863 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
864 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be

- 865 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);
- 866 (xiv) information that an owner of unimproved property provides to a local entity as
867 provided in Section [11-42-205](#);
- 868 (xv) a video or audio recording of an interview, or a transcript of the video or audio
869 recording, that is conducted at a Children's Justice Center established under Section
870 [~~67-5b-102~~] [67-5d-501](#);
- 871 (xvi) child pornography, as defined by Section [76-5b-103](#); or
- 872 (xvii) before final disposition of an ethics complaint occurs, a video or audio recording
873 of the closed portion of a meeting or hearing of:
- 874 (A) a Senate or House Ethics Committee;
- 875 (B) the Independent Legislative Ethics Commission;
- 876 (C) the Independent Executive Branch Ethics Commission, created in Section
877 [63A-14-202](#); or
- 878 (D) the Political Subdivisions Ethics Review Commission established in Section
879 [63A-15-201](#).
- 880 (23) "Record series" means a group of records that may be treated as a unit for
881 purposes of designation, description, management, or disposition.
- 882 (24) "Records officer" means the individual appointed by the chief administrative
883 officer of each governmental entity, or the political subdivision to work with state archives in
884 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
885 records.
- 886 (25) "Schedule," "scheduling," and their derivative forms mean the process of
887 specifying the length of time each record series should be retained by a governmental entity for
888 administrative, legal, fiscal, or historical purposes and when each record series should be
889 transferred to the state archives or destroyed.
- 890 (26) "Sponsored research" means research, training, and other sponsored activities as
891 defined by the federal Executive Office of the President, Office of Management and Budget:
- 892 (a) conducted:
- 893 (i) by an institution within the state system of higher education defined in Section
894 [53B-1-102](#); and
- 895 (ii) through an office responsible for sponsored projects or programs; and

- 896 (b) funded or otherwise supported by an external:
- 897 (i) person that is not created or controlled by the institution within the state system of
- 898 higher education; or
- 899 (ii) federal, state, or local governmental entity.

900 (27) "State archives" means the Division of Archives and Records Service created in

901 Section [63A-12-101](#).

902 (28) "State archivist" means the director of the state archives.

903 (29) "State Records Committee" means the State Records Committee created in

904 Section [63G-2-501](#).

905 (30) "Summary data" means statistical records and compilations that contain data

906 derived from private, controlled, or protected information but that do not disclose private,

907 controlled, or protected information.

908 Section 15. Section **63G-7-102** is amended to read:

909 **63G-7-102. Definitions.**

910 As used in this chapter:

911 (1) "Arises out of or in connection with, or results from," when used to describe the

912 relationship between conduct or a condition and an injury, means that:

913 (a) there is some causal relationship between the conduct or condition and the injury;

914 (b) the causal relationship is more than any causal connection but less than proximate

915 cause; and

916 (c) the causal relationship is sufficient to conclude that the injury originates with, flows

917 from, or is incident to the conduct or condition.

918 (2) "Claim" means any asserted demand for or cause of action for money or damages,

919 whether arising under the common law, under state constitutional provisions, or under state

920 statutes, against a governmental entity or against an employee in the employee's personal

921 capacity.

922 (3) (a) "Employee" includes:

923 (i) a governmental entity's officers, employees, servants, trustees, or commissioners;

924 (ii) members of a governing body;

925 (iii) members of a government entity board;

926 (iv) members of a government entity commission;

- 927 (v) members of an advisory body, officers, and employees of a Children's Justice
928 Center created in accordance with Section ~~[67-5b-102]~~ [67-5d-501](#);
- 929 (vi) student teachers holding a license issued by the State Board of Education;
930 (vii) educational aides;
931 (viii) students engaged in internships under Section [53B-16-402](#) or [53G-7-902](#);
932 (ix) volunteers as defined by Subsection [67-20-2\(3\)](#); and
933 (x) tutors.
- 934 (b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or
935 not the individual holding that position receives compensation.
- 936 (c) "Employee" does not include an independent contractor.
- 937 (4) "Governmental entity" means:
938 (a) the state and its political subdivisions; and
939 (b) a law enforcement agency, as defined in Section [53-1-102](#), that employs one or
940 more law enforcement officers, as defined in Section [53-13-103](#).
- 941 (5) (a) "Governmental function" means each activity, undertaking, or operation of a
942 governmental entity.
- 943 (b) "Governmental function" includes each activity, undertaking, or operation
944 performed by a department, agency, employee, agent, or officer of a governmental entity.
- 945 (c) "Governmental function" includes a governmental entity's failure to act.
- 946 (6) "Injury" means death, injury to a person, damage to or loss of property, or any other
947 injury that a person may suffer to the person or estate, that would be actionable if inflicted by a
948 private person or the private person's agent.
- 949 (7) "Personal injury" means an injury of any kind other than property damage.
- 950 (8) "Political subdivision" means any county, city, town, school district, community
951 reinvestment agency, special improvement or taxing district, local district, special service
952 district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13,
953 Interlocal Cooperation Act, or other governmental subdivision or public corporation.
- 954 (9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in
955 real or personal property.
- 956 (10) "State" means the state of Utah, and includes each office, department, division,
957 agency, authority, commission, board, institution, hospital, college, university, Children's

958 Justice Center, or other instrumentality of the state.

959 (11) "Willful misconduct" means the intentional doing of a wrongful act, or the
960 wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's
961 conduct will probably result in injury.

962 Section 16. Section **63I-1-263** is amended to read:

963 **63I-1-263. Repeal dates, Titles 63A to 63N.**

964 (1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

965 (a) Subsection **63A-1-201**(1) is repealed;

966 (b) Subsection **63A-1-202**(2)(c), the language "using criteria established by the board"
967 is repealed;

968 (c) Section **63A-1-203** is repealed;

969 (d) Subsections **63A-1-204**(1) and (2), the language "After consultation with the board,
970 and" is repealed; and

971 (e) Subsection **63A-1-204**(1)(b), the language "using the standards provided in
972 Subsection **63A-1-203**(3)(c)" is repealed.

973 (2) Subsection **63A-5b-405**(5), relating to prioritizing and allocating capital
974 improvement funding, is repealed July 1, 2024.

975 (3) Section **63A-5b-1003**, State Facility Energy Efficiency Fund, is repealed July 1,
976 2023.

977 (4) Sections **63A-9-301** and **63A-9-302**, related to the Motor Vehicle Review
978 Committee, are repealed July 1, 2023.

979 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
980 1, 2028.

981 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
982 2025.

983 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
984 2024.

985 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
986 repealed July 1, 2021.

987 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
988 July 1, 2023.

- 989 (10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.
- 990 (11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1,
991 2025.
- 992 (12) Section [63G-6a-805](#), which creates the Purchasing from Persons with Disabilities
993 Advisory Board, is repealed July 1, 2026.
- 994 (13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
995 2025.
- 996 (14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
997 2024.
- 998 (15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 999 (16) Subsection [63J-1-602.1](#)(14), Nurse Home Visiting Restricted Account is repealed
1000 July 1, 2026.
- 1001 (17) (a) Subsection [63J-1-602.1](#)(58), relating to the Utah Statewide Radio System
1002 Restricted Account, is repealed July 1, 2022.
- 1003 (b) When repealing Subsection [63J-1-602.1](#)(58), the Office of Legislative Research and
1004 General Counsel shall, in addition to the office's authority under Subsection [36-12-12](#)(3), make
1005 necessary changes to subsection numbering and cross references.
- 1006 (18) Subsection [63J-1-602.2](#)(4), referring to dedicated credits to the Utah Marriage
1007 Commission, is repealed July 1, 2023.
- 1008 (19) Subsection [63J-1-602.2](#)(5), referring to the Trip Reduction Program, is repealed
1009 July 1, 2022.
- 1010 (20) Subsection [63J-1-602.2](#)(25), related to the Utah Seismic Safety Commission, is
1011 repealed January 1, 2025.
- 1012 (21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is
1013 repealed July 1, 2027.
- 1014 (22) Subsection [63J-4-608](#)(3), which creates the Federal Land Application Advisory
1015 Committee, is repealed on July 1, 2021.
- 1016 (23) In relation to the Utah Substance Use and Mental Health Advisory Council, on
1017 January 1, 2023:
- 1018 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are
1019 repealed;

1020 (b) Section 63M-7-305, the language that states "council" is replaced with
1021 "commission";

1022 (c) Subsection 63M-7-305(1) is repealed and replaced with:
1023 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and
1024 (d) Subsection 63M-7-305(2) is repealed and replaced with:
1025 "(2) The commission shall:
1026 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
1027 Drug-Related Offenses Reform Act; and
1028 (b) coordinate the implementation of Section 77-18-1.1 and related provisions in
1029 Subsections 77-18-1(5)(b)(iii) and (iv).".

1030 [~~(24) The Crime Victim Reparations and Assistance Board, created in Section~~
1031 ~~63M-7-504, is repealed July 1, 2027.]~~

1032 [~~(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July~~
1033 ~~1, 2022.]~~

1034 [~~(26)~~ (24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
1035 2021.

1036 [~~(27)~~ (25) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is
1037 repealed January 1, 2023.

1038 [~~(28)~~ (26) Title 63N, Chapter 1, Part 5, Governor's Economic Development
1039 Coordinating Council, is repealed July 1, 2024.

1040 [~~(29)~~ (27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.
1041 [~~(30)~~ (28) Section 63N-2-512 is repealed July 1, 2021.

1042 [~~(31)~~ (29) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
1043 January 1, 2021.

1044 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
1045 calendar years beginning on or after January 1, 2021.

1046 (c) Notwithstanding Subsection [~~(31)(b)~~ (29)(b)], an entity may carry forward a tax
1047 credit in accordance with Section 59-9-107 if:
1048 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
1049 31, 2020; and
1050 (ii) the qualified equity investment that is the basis of the tax credit is certified under

1051 Section [63N-2-603](#) on or before December 31, 2023.

1052 ~~[(32)]~~ (30) Subsections [63N-3-109\(2\)\(e\)](#) and [63N-3-109\(2\)\(f\)\(i\)](#) are repealed July 1,

1053 2023.

1054 ~~[(33)]~~ (31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is

1055 repealed July 1, 2023.

1056 ~~[(34)]~~ (32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed

1057 July 1, 2025.

1058 ~~[(35)]~~ (33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant

1059 Program, is repealed January 1, 2023.

1060 ~~[(36)]~~ (34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed

1061 January 1, 2023.

1062 Section 17. Section **63I-1-267** is amended to read:

1063 **63I-1-267. Repeal dates, Title 67.**

1064 (1) Section [67-1-8.1](#), which creates the Executive Residence Commission, is repealed

1065 July 1, 2022.

1066 (2) Section [67-1-15](#) is repealed December 31, 2027.

1067 (3) Section [67-3-11](#) is repealed July 1, 2024.

1068 (4) Title 67, Chapter 5a, Utah Prosecution Council, is repealed July 1, 2027.

1069 ~~[(5) Section [67-5b-105](#), which creates local advisory boards for the Children's Justice~~

1070 ~~Center Program, is repealed July 1, 2021.]~~

1071 (5) The Crime Victim Reparations and Assistance Board, created in Section [67-5d-401](#),

1072 is repealed July 1, 2027.

1073 (6) Title 67, Chapter 5d, Part 2, Utah Council on Victims of Crime, is repealed July 1,

1074 2022.

1075 (7) Section [67-5d-504](#), which creates local advisory boards for the Children's Justice

1076 Center Program, is repealed July 1, 2021.

1077 Section 18. Section **64-13-14.7** is amended to read:

1078 **64-13-14.7. Victim notification of offender's release.**

1079 (1) As used in this section:

1080 (a) "Offender" means a person who committed an act of criminally injurious conduct

1081 against the victim and has been sentenced to incarceration in the custody of the department.

1082 (b) (i) "Victim" means a person against whom an offender committed criminally
1083 injurious conduct as defined in Section [~~63M-7-502~~] [67-5d-102](#), and who is entitled to notice
1084 of hearings regarding the offender's parole under Section [77-27-9.5](#).

1085 (ii) "Victim" includes the legal guardian of a victim, or the representative of the family
1086 of a victim who is deceased.

1087 (2) (a) A victim shall be notified of an offender's release under Sections [64-13-14.5](#) and
1088 [64-13-14.7](#), or any other release to or from a half-way house, to a program outside of the prison
1089 such as a rehabilitation program, state hospital, community center other than a release on
1090 parole, commutation or termination for which notice is provided under Sections [77-27-9.5](#) and
1091 [77-27-9.7](#), transfer of the offender to an out-of-state facility, or an offender's escape, upon
1092 submitting a signed written request of notification to the Department of Corrections. The
1093 request shall include a current mailing address and may include current telephone numbers if
1094 the victim chooses.

1095 (b) The department shall advise the victim of an offender's release or escape under
1096 Subsection (2)(a), in writing. However, if written notice is not feasible because the release is
1097 immediate or the offender escapes, the department shall make a reasonable attempt to notify
1098 the victim by telephone if the victim has provided a telephone number under Subsection (2)(a)
1099 and shall follow up with a written notice.

1100 (3) Notice of victim rights under this section shall be provided to the victim in the
1101 notice of hearings regarding parole under Section [77-27-9.5](#). The department shall coordinate
1102 with the Board of Pardons and Parole to ensure the notice is implemented.

1103 (4) A victim's request for notification under this section and any notification to a victim
1104 under this section is private information that the department may not release:

1105 (a) to the offender under any circumstances; or

1106 (b) to any other party without the written consent of the victim.

1107 (5) The department may make rules as necessary to implement this section.

1108 (6) The department or its employees acting within the scope of their employment are
1109 not civilly or criminally liable for failure to provide notice or improper notice under this section
1110 unless the failure or impropriety is willful or grossly negligent.

1111 Section 19. Section **67-5-1** is amended to read:

1112 **67-5-1. General duties.**

1113 The attorney general shall:

1114 (1) perform all duties in a manner consistent with the attorney-client relationship under
1115 Section 67-5-17;

1116 (2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court
1117 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
1118 defend all causes to which the state or any officer, board, or commission of the state in an
1119 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
1120 state is interested;

1121 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
1122 process as necessary to execute the judgment;

1123 (4) account for, and pay over to the proper officer, all money that comes into the
1124 attorney general's possession that belongs to the state;

1125 (5) keep a file of all cases in which the attorney general is required to appear, including
1126 any documents and papers showing the court in which the cases have been instituted and tried,
1127 and whether they are civil or criminal, and:

1128 (a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to
1129 judgment, a memorandum of the judgment and of any process issued if satisfied, and if not
1130 satisfied, documentation of the return of the sheriff;

1131 (b) if criminal, the nature of the crime, the mode of prosecution, the stage of
1132 proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the
1133 execution, if the sentence has been executed, and, if not executed, the reason for the delay or
1134 prevention; and

1135 (c) deliver this information to the attorney general's successor in office;

1136 (6) exercise supervisory powers over the district and county attorneys of the state in all
1137 matters pertaining to the duties of the district and county attorneys' offices, including the
1138 authority to:

1139 (a) require a district or county attorney of the state to, upon request, report on the status
1140 of public business entrusted to the district or county attorney's charge; or

1141 (b) review investigation results de novo and file criminal charges, if warranted, in any
1142 case involving a first degree felony, if:

1143 (i) a law enforcement agency submits investigation results to the county or district

1144 attorney of the jurisdiction where the incident occurred and the county or district attorney:
1145 (A) declines to file criminal charges; or
1146 (B) fails to screen the case for criminal charges within six months of the law
1147 enforcement agency's submission of the investigation results; and
1148 (ii) after consultation with the county or district attorney of the jurisdiction where the
1149 incident occurred, the attorney general reasonably believes action by the attorney general would
1150 not interfere with an ongoing investigation or prosecution by the county or district attorney of
1151 the jurisdiction where the incident occurred;
1152 (7) give the attorney general's opinion in writing and without fee, when required, upon
1153 any question of law relating to the office of the requester:
1154 (a) in accordance with Section 67-5-1.1, to the Legislature or either house;
1155 (b) to any state officer, board, or commission; and
1156 (c) to any county attorney or district attorney;
1157 (8) when required by the public service or directed by the governor, assist any county,
1158 district, or city attorney in the discharge of county, district, or city attorney's duties;
1159 (9) purchase in the name of the state, under the direction of the state Board of
1160 Examiners, any property offered for sale under execution issued upon judgments in favor of or
1161 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
1162 consideration of the purchases;
1163 (10) when the property of a judgment debtor in any judgment mentioned in Subsection
1164 (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
1165 taking precedence of the judgment in favor of the state, redeem the property, under the
1166 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
1167 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
1168 out of any money appropriated for these purposes;
1169 (11) when in the attorney general's opinion it is necessary for the collection or
1170 enforcement of any judgment, institute and prosecute on behalf of the state any action or
1171 proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment
1172 debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of
1173 Examiners, out of any money not otherwise appropriated;
1174 (12) discharge the duties of a member of all official boards of which the attorney

1175 general is or may be made a member by the Utah Constitution or by the laws of the state, and
1176 other duties prescribed by law;

1177 (13) institute and prosecute proper proceedings in any court of the state or of the
1178 United States to restrain and enjoin corporations organized under the laws of this or any other
1179 state or territory from acting illegally or in excess of their corporate powers or contrary to
1180 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
1181 and wind up their affairs;

1182 (14) institute investigations for the recovery of all real or personal property that may
1183 have escheated or should escheat to the state, and for that purpose, subpoena any persons
1184 before any of the district courts to answer inquiries and render accounts concerning any
1185 property, examine all books and papers of any corporations, and when any real or personal
1186 property is discovered that should escheat to the state, institute suit in the district court of the
1187 county where the property is situated for its recovery, and escheat that property to the state;

1188 ~~[(15) administer the Children's Justice Center as a program to be implemented in
1189 various counties pursuant to Sections 67-5b-101 through 67-5b-107;]~~

1190 ~~[(16)]~~ (15) assist the Constitutional Defense Council as provided in Title 63C, Chapter
1191 4a, Constitutional and Federalism Defense Act;

1192 ~~[(17)]~~ (16) pursue any appropriate legal action to implement the state's public lands
1193 policy established in Section 63C-4a-103;

1194 ~~[(18)]~~ (17) investigate and prosecute violations of all applicable state laws relating to
1195 fraud in connection with the state Medicaid program and any other medical assistance program
1196 administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

1197 ~~[(19)]~~ (18) investigate and prosecute complaints of abuse, neglect, or exploitation of
1198 patients at:

1199 (a) health care facilities that receive payments under the state Medicaid program; and

1200 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.

1201 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

1202 ~~[(20)]~~ (19) (a) report at least twice per year to the Legislative Management Committee
1203 on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

1204 (i) cost the state more than \$500,000; or

1205 (ii) require the state to take legally binding action that would cost more than \$500,000

1206 to implement; and
1207 (b) if the meeting is closed, include an estimate of the state's potential financial or other
1208 legal exposure in that report;
1209 ~~[(21)]~~ (20) (a) submit a written report to the committees described in Subsection ~~[(21)]~~
1210 (20)(b) that summarizes any lawsuit or decision in which a court or the Office of the Attorney
1211 General has determined that a state statute is unconstitutional or unenforceable since the
1212 attorney general's last report under this Subsection ~~[(21)]~~ (20), including any:
1213 (i) settlements reached;
1214 (ii) consent decrees entered;
1215 (iii) judgments issued;
1216 (iv) preliminary injunctions issued;
1217 (v) temporary restraining orders issued; or
1218 (vi) formal or informal policies of the Office of the Attorney General to not enforce a
1219 law; and
1220 (b) at least 30 days before the Legislature's May and November interim meetings,
1221 submit the report described in Subsection ~~[(21)]~~ (20)(a) to:
1222 (i) the Legislative Management Committee;
1223 (ii) the Judiciary Interim Committee; and
1224 (iii) the Law Enforcement and Criminal Justice Interim Committee;
1225 ~~[(22)]~~ (21) if the attorney general operates the Office of the Attorney General or any
1226 portion of the Office of the Attorney General as an internal service fund agency in accordance
1227 with Section 67-5-4, submit to the rate committee established in Section 67-5-34:
1228 (a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
1229 (b) any other information or analysis requested by the rate committee;
1230 ~~[(23)]~~ (22) before the end of each calendar year, create an annual performance report
1231 for the Office of the Attorney General and post the report on the attorney general's website;
1232 ~~[(24)]~~ (23) ensure that any training required under this chapter complies with Title
1233 63G, Chapter 22, State Training and Certification Requirements;
1234 ~~[(25)]~~ (24) notify the legislative general counsel in writing within three business days
1235 after the day on which the attorney general is officially notified of a claim, regardless of
1236 whether the claim is filed in state or federal court, that challenges:

- 1237 (a) the constitutionality of a state statute;
- 1238 (b) the validity of legislation; or
- 1239 (c) any action of the Legislature;[and]
- 1240 ~~[(26)]~~ (25) (a) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide
- 1241 a special advisor to the Office of the Governor and the Office of the Attorney General in
- 1242 matters relating to Native American and tribal issues to:
- 1243 (i) establish outreach to the tribes and affected counties and communities; and
- 1244 (ii) foster better relations and a cooperative framework; and
- 1245 (b) annually report to the Executive Offices and Criminal Justice Appropriations
- 1246 Subcommittee regarding:
- 1247 (i) the status of the work of the special advisor described in Subsection ~~[(26)(a)]~~
- 1248 (25)(a); and
- 1249 (ii) whether the need remains for the ongoing appropriation to fund the special advisor
- 1250 described in Subsection ~~[(26)(a):]~~ (25)(a); and

(26) administer the Division of Victim Services created in Section [67-5d-103](#).

Section 20. Section **67-5d-101** is enacted to read:

CHAPTER 5d. VICTIM SERVICES ACT

Part 1. General Provisions -- Division of Victim Services

67-5d-101. Short title.

This chapter is known as the "Victim Services Act."

Section 21. Section **67-5d-102** is enacted to read:

67-5d-102. Definitions.

As used in this chapter:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section [76-2-202](#).

(2) "Board" means the Crime Victim Reparations and Assistance Board created under Section [67-5d-401](#).

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

(4) "Center" means a Children's Justice Center established in accordance with Section [67-5d-501](#).

- 1268 (5) "Claimant" means any of the following claiming reparations under this part:
1269 (a) a victim;
1270 (b) a dependent of a deceased victim; or
1271 (c) an individual or representative who files a reparations claim on behalf of a victim.
1272 (6) "Child" means an unemancipated individual who is under 18 years old.
1273 (7) "Child abuse case" means a juvenile, civil, or criminal case involving a child abuse
1274 victim.
1275 (8) "Child abuse victim" means a child 17 years of age or younger who is:
1276 (a) a victim of:
1277 (i) sexual abuse; or
1278 (ii) physical abuse; or
1279 (b) a victim or a critical witness in any criminal case, such as a child endangerment
1280 case described in Section [76-5-112.5](#).
1281 (9) "Collateral source" means any source of benefits or advantages for economic loss
1282 otherwise reparable under this part which the victim or claimant has received, or which is
1283 readily available to the victim from:
1284 (a) the offender;
1285 (b) the insurance of the offender or the victim;
1286 (c) the United States government or any of The United States government's agencies, a
1287 state or any of The United States government's political subdivisions, or an instrumentality of
1288 two or more states, except in the case on nonobligatory state-funded programs;
1289 (d) social security, Medicare, and Medicaid;
1290 (e) state-required temporary nonoccupational income replacement insurance or
1291 disability income insurance;
1292 (f) workers' compensation;
1293 (g) wage continuation programs of any employer;
1294 (h) proceeds of a contract of insurance payable to the victim for the loss the victim
1295 sustained because of the criminally injurious conduct;
1296 (i) a contract providing prepaid hospital and other health care services or benefits for
1297 disability; or
1298 (j) veteran's benefits, including veteran's hospitalization benefits.

1299 (10) "Council" means the Council on Victims of Crime created in Section 67-5d-201.

1300 (11) (a) "Criminally injurious conduct" other than acts of war declared or not declared
1301 means conduct that:

1302 (i) is or would be subject to prosecution in this state under Section 76-1-201;

1303 (ii) occurs or is attempted;

1304 (iii) causes, or poses a substantial threat of causing, bodily injury or death;

1305 (iv) is punishable by fine, imprisonment, or death if the individual engaging in the
1306 conduct possessed the capacity to commit the conduct; and

1307 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,
1308 aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is
1309 conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the
1310 Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

1311 (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C.
1312 Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism"
1313 does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.

1314 (c) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and
1315 other conduct leading to the psychological injury of an individual resulting from living in a
1316 setting that involves a bigamous relationship.

1317 (12) "Dependent" means an individual to whom the victim is wholly or partially legally
1318 responsible for care or support and includes a child of the victim born after the victim's death.

1319 (13) "Dependent's economic loss" means loss after the victim's death of contributions
1320 of things of economic value to the victim's dependent, not including services the dependent
1321 would have received from the victim if the victim had not suffered the fatal injury, less
1322 expenses of the dependent avoided by reason of victim's death.

1323 (14) "Dependent's replacement services loss" means loss reasonably and necessarily
1324 incurred by the dependent after the victim's death in obtaining services in lieu of those the
1325 decedent would have performed for the victim's benefit if the victim had not suffered the fatal
1326 injury, less expenses of the dependent avoided by reason of the victim's death and not
1327 subtracted in calculating the dependent's economic loss.

1328 (15) "Director" means the director of the office.

1329 (16) "Disposition" means the sentencing or determination of penalty or punishment to

- 1330 be imposed upon an individual:
- 1331 (a) convicted of a crime;
- 1332 (b) found delinquent; or
- 1333 (c) against whom a finding of sufficient facts for conviction or finding of delinquency
- 1334 is made.
- 1335 (17) "Division" means the Utah Division of Victim Services created in this chapter.
- 1336 (18) "Division director" means the director of the division.
- 1337 (19) "Domestic violence services" means:
- 1338 (a) temporary shelter, treatment, and related services to:
- 1339 (i) an individual who is a victim of abuse, as defined in Section [78B-7-102](#); and
- 1340 (ii) the dependent children of an individual who is a victim of abuse, as defined in
- 1341 Section [78B-7-102](#); and
- 1342 (b) treatment services for an individual who is alleged to have committed, has been
- 1343 convicted of, or has pled guilty to, an act of domestic violence as defined in Section [77-36-1](#).
- 1344 (20) (a) "Economic loss" means economic detriment consisting only of allowable
- 1345 expense, work loss, replacement services loss, and if injury causes death, dependent's economic
- 1346 loss and dependent's replacement service loss.
- 1347 (b) "Economic loss" includes economic detriment even if caused by pain and suffering
- 1348 or physical impairment.
- 1349 (c) "Economic loss" does not include noneconomic detriment.
- 1350 (21) "Elderly victim" means an individual 60 years old or older who is a victim.
- 1351 (22) "Fraudulent claim" means a filed reparations based on material misrepresentation
- 1352 of fact and intended to deceive the reparations staff for the purpose of obtaining reparation
- 1353 funds for which the claimant is not eligible.
- 1354 (23) "Fund" means the Crime Victim Reparations Fund created in Section [67-5d-523](#).
- 1355 (24) "Law enforcement officer" means a law enforcement officer as defined in Section
- 1356 [53-13-103](#).
- 1357 (25) "Medical examination" means a physical examination necessary to document
- 1358 criminally injurious conduct but does not include mental health evaluations for the prosecution
- 1359 and investigation of a crime.
- 1360 (26) "Mental health counseling" means outpatient and inpatient counseling necessitated

1361 as a result of criminally injurious conduct, is subject to rules made by the board in accordance
1362 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1363 (27) "Misconduct" as provided in Subsection [67-5d-309\(1\)\(b\)](#) means conduct by the
1364 victim which was attributable to the injury or death of the victim as provided by rules made by
1365 the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1366 (28) "Noneconomic detriment" means pain, suffering, inconvenience, physical
1367 impairment, and other nonpecuniary damage, except as provided in this part.

1368 (29) "Offender" means an individual who has violated the Utah Criminal Code through
1369 criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or
1370 convicted.

1371 (30) "Offense" means a violation of the Utah Criminal Code.

1372 (31) "Office" means the the Utah Office for Victims of Crime created in Section
1373 [67-5d-302](#).

1374 (32) "Officers and employees" means any person performing services for two or more
1375 public agencies as agreed in a memorandum of understanding in accordance with Section
1376 [67-5d-503](#).

1377 (33) "Pecuniary loss" does not include loss attributable to pain and suffering except as
1378 otherwise provided in this part.

1379 (34) "Perpetrator" means the individual who actually participated in the criminally
1380 injurious conduct.

1381 (35) "Public agency" means a municipality, a county, the division, the Office of the
1382 Attorney General, the Division of Child and Family Services, the Division of Juvenile Justice
1383 Services, the Department of Corrections, the juvenile court, or the Administrative Office of the
1384 Courts.

1385 (36) "Reparations award" means money or other benefits provided to a claimant or to
1386 another on behalf of a claimant after the day on which a reparations claim is approved by the
1387 office.

1388 (37) "Reparations claim" means a claimant's request or application made to the office
1389 for a reparations award.

1390 (38) "Reparations officer" means an individual employed by the office to investigate
1391 claims of victims and award reparations under this part, and includes the director when the

1392 director is acting as a reparations officer.

1393 (39) "Replacement service loss" means expenses reasonably and necessarily incurred in
1394 obtaining ordinary and necessary services in lieu of those the injured individual would have
1395 performed, not for income but the benefit of the injured individual or the injured individual's
1396 dependents if the injured individual had not been injured.

1397 (40) "Representative" means the victim, immediate family member, legal guardian,
1398 attorney, conservator, executor, or an heir of an individual but does not include a service
1399 provider or collateral source.

1400 (41) "Restitution" means money or services an appropriate authority orders an offender
1401 to pay or render to a victim of the offender's conduct.

1402 (42) "Satellite office" means a child-friendly facility supervised by a Children's Justice
1403 Center established in accordance with Section [67-5d-501](#).

1404 (43) "Secondary victim" means an individual who is traumatically affected by the
1405 criminally injurious conduct subject to rules made by the board in accordance with Title 63G,
1406 Chapter 3, Utah Administrative Rulemaking Act.

1407 (44) "Serious bodily injury" means the same as that term is defined in Section
1408 [76-1-601](#).

1409 (45) "Service provider" means an individual or agency who provides a service to crime
1410 victims for a monetary fee except attorneys as provided in Section [67-5d-321](#).

1411 (46) "Substantial bodily injury" means the same as that term is defined in Section
1412 [76-1-601](#).

1413 (47) (a) "Victim" means an individual who suffers bodily or psychological injury or
1414 death as a direct result of criminally injurious conduct or of the production of pornography in
1415 violation of Section [76-5b-201](#) if the individual is a minor.

1416 (b) "Victim" does not include an individual who participated in or observed the judicial
1417 proceedings against an offender unless otherwise provided by statute or rule made in
1418 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1419 (c) "Victim" includes a resident of this state who is injured or killed by an act of
1420 terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

1421 (48) (a) "Volunteer" means any individual who donates service without pay or other
1422 compensation except expenses actually and reasonably incurred as approved by the supervising

1423 agency.

1424 (b) "Volunteer" does not include an individual participating in human subjects research
1425 or a court-ordered compensatory service worker as defined in Section [67-20-2](#).

1426 (49) "Work loss" means loss of income from work the injured victim would have
1427 performed if the injured victim had not been injured and expenses reasonably incurred by the
1428 injured victim in obtaining services in lieu of those the injured victim would have performed
1429 for income, reduced by any income from substitute work the injured victim was capable of
1430 performing but unreasonably failed to undertake.

1431 Section 22. Section **67-5d-103** is enacted to read:

1432 **67-5d-103. Division creation and responsibilities.**

1433 (1) There is created the "Division of Victim Services" within the Office of the Attorney
1434 General.

1435 (2) The division shall:

1436 (a) provide domestic violence services and shelters, in accordance with federal law, to
1437 families and children;

1438 (b) provide protective services to victims of domestic violence, as defined in Section
1439 [77-36-1](#), and their children, in accordance with the provisions of this chapter and Title 78A,
1440 Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

1441 (c) provide services for minors who are victims of human trafficking or human
1442 smuggling as described in Sections [76-5-308](#) through [76-5-310](#) or who have engaged in
1443 prostitution or sexual solicitation as defined in Sections [76-10-1302](#) and [76-10-1313](#);

1444 (d) cooperate with the federal government in the administration of grants and programs
1445 pertaining to domestic violence and victim services;

1446 (e) establish standards for a direct or contract provider of domestic violence services;

1447 (f) within appropriations from the Legislature, provide or contract for a variety of
1448 domestic violence services and treatment methods; and

1449 (g) establish rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in
1450 accordance with the requirements of this title and Title 78A, Chapter 6, Juvenile Court Act,
1451 regarding domestic violence services.

1452 Section 23. Section **67-5d-104** is enacted to read:

1453 **67-5d-104. Division director.**

- 1454 (1) The division director shall:
- 1455 (a) be appointed by the attorney general in consultation with the council;
- 1456 (b) serve at the pleasure of the attorney general;
- 1457 (c) be an experienced administrator with a background in at least one of the following
- 1458 fields:
- 1459 (i) social work;
- 1460 (ii) psychology;
- 1461 (iii) criminal justice; or
- 1462 (iv) law;
- 1463 (d) demonstrate an understanding of the needs of crime victims and of services to
- 1464 victims; and
- 1465 (e) have at least five years of experience working in criminal justice or victim services.

- 1466 (2) The division director shall:
- 1467 (a) administer and supervise the division;
- 1468 (b) coordinate policies and programs, and activities conducted through the board,
- 1469 council, and office;
- 1470 (c) approve the proposed budget of the board, council, and office; and
- 1471 (d) administer the Children's Justice Center Program created in Title 67, Chapter 5d,
- 1472 Part 3, Children's Justice Center Program.

1473 Section 24. Section **67-5d-201**, which is renumbered from Section 63M-7-601 is

1474 renumbered and amended to read:

Part 2. Utah Council on Victims of Crime

~~[63M-7-601].~~ **67-5d-201. Creation -- Members -- Chair.**

- 1477 (1) There is created within the ~~[governor's office]~~ division the Utah Council on Victims
- 1478 of Crime.
- 1479 (2) The ~~[Utah Council on Victims of Crime]~~ council shall be composed of 25 voting
- 1480 members as follows:
- 1481 (a) a representative of the Commission on Criminal and Juvenile Justice appointed by
- 1482 the executive director;
- 1483 (b) a representative of the Department of Corrections appointed by the executive
- 1484 director;

- 1485 (c) a representative of the Board of Pardons and Parole appointed by the chair;
- 1486 (d) a representative of the Department of Public Safety appointed by the commissioner;
- 1487 (e) a representative of the Division of Juvenile Justice Services appointed by the
- 1488 director;
- 1489 (f) a representative of the Utah Office for Victims of Crime appointed by the director;
- 1490 (g) a representative ~~[of the Office of the Attorney General appointed by the attorney~~
- 1491 ~~general]~~ of the governor's office appointed by the governor;
- 1492 (h) a representative of the United States Attorney for the district of Utah appointed by
- 1493 the United States Attorney;
- 1494 (i) a representative of Utah's Native American community appointed by the director of
- 1495 the Division of Indian Affairs after input from federally recognized tribes in Utah;
- 1496 ~~[(j) a professional or volunteer working in the area of violence against women and~~
- 1497 ~~families appointed by the governor;]~~
- 1498 (j) a representative of the Department of Health's Violence and Injury Prevention
- 1499 Program appointed by the program's manager;
- 1500 (k) the chair of each judicial district's victims' rights committee;
- 1501 ~~[(l) the following members appointed to serve four-year terms:]~~
- 1502 ~~[(i)]~~ (l) a representative of the Statewide Association of Public Attorneys appointed by
- 1503 that association;
- 1504 ~~[(ii)]~~ (m) a representative of the Utah Chiefs of Police Association appointed by the
- 1505 president of that association;
- 1506 ~~[(iii)]~~ (n) a representative of the Utah Sheriffs' Association appointed by the president
- 1507 of that association;
- 1508 ~~[(iv)]~~ (o) a representative of a Children's Justice Center appointed by the attorney
- 1509 general; and
- 1510 ~~[(v) a citizen representative appointed by the governor; and]~~
- 1511 ~~[(m)]~~ (p) the following members appointed by the members in Subsections (2)(a)
- 1512 through (2)~~[(k)]~~(p) to serve four-year terms:
- 1513 (i) an individual who works professionally with victims of crime; ~~[and]~~
- 1514 ~~[(ii) a victim of crime.]~~
- 1515 ~~[(3) The council shall annually elect one member to serve as chair.]~~

- 1516 (ii) a citizen representative; and
- 1517 (iii) a citizen representative who has been a victim of crime.
- 1518 (3) The council shall annually elect:
- 1519 (a) one member to serve as chair;
- 1520 (b) one member to serve as vice-chair; and
- 1521 (c) one member to serve as treasurer.
- 1522 (4) The council shall work with the division director to coordinate services and
- 1523 initiatives.

1524 Section 25. Section **67-5d-202**, which is renumbered from Section 63M-7-602 is
1525 renumbered and amended to read:

1526 ~~[63M-7-602].~~ **67-5d-202. Reappointment -- Vacancies.**

1527 (1) ~~[Members]~~ A member appointed to serve a four-year ~~[terms shall be]~~ term is
1528 eligible for reappointment one time.

1529 (2) When a vacancy occurs in the membership for any reason, the replacement shall be
1530 appointed for the remainder of the unexpired term.

1531 Section 26. Section **67-5d-203**, which is renumbered from Section 63M-7-603 is
1532 renumbered and amended to read:

1533 ~~[63M-7-603].~~ **67-5d-203. Duties of the council.**

1534 (1) The council shall:

1535 (a) make recommendations to the Legislature, the ~~[governor]~~ attorney general, and the
1536 Judicial Council on the following:

- 1537 (i) enforcing existing rights of victims of crime;
- 1538 (ii) enhancing rights of victims of crime;
- 1539 (iii) the role of victims of crime in the criminal justice system;
- 1540 (iv) victim restitution;
- 1541 (v) educating and training criminal justice professionals on the rights of victims of
1542 crime; and
- 1543 (vi) enhancing services to victims of crimes;
- 1544 (b) provide training on the rights of victims of crime; and
- 1545 (c) establish a subcommittee to consider complaints not resolved by the Victims'
1546 Rights Committee established in Section 77-37-5.

- 1547 (2) The council:
- 1548 (a) shall advocate the adoption, repeal, or modification of laws or proposed legislation
- 1549 in the interest of victims of crime;
- 1550 (b) may establish additional subcommittees to assist in accomplishing its duties; [~~and~~]
- 1551 (c) shall select and appoint persons [~~pursuant to the provisions of~~] in accordance with
- 1552 Section 77-37-5 to act as chairpersons of the judicial district victims' rights committees and
- 1553 provide assistance to the committees in their operations[~~;~~]; and
- 1554 (d) subject to court rules, may advocate in appellate courts on behalf of victims of
- 1555 crime.

1556 Section 27. Section **67-5d-204**, which is renumbered from Section 63M-7-604 is

1557 renumbered and amended to read:

1558 ~~[63M-7-604].~~ **67-5d-204. Member expenses.**

1559 A member of the council may not receive compensation or benefits for the member's

1560 service, but may receive per diem and travel expenses in accordance with:

- 1561 (1) Section 63A-3-106;
- 1562 (2) Section 63A-3-107; and
- 1563 (3) rules made by the Division of Finance [~~pursuant to~~] in accordance with Sections
- 1564 63A-3-106 and 63A-3-107.

1565 Section 28. Section **67-5d-205**, which is renumbered from Section 63M-7-605 is

1566 renumbered and amended to read:

1567 ~~[63M-7-605].~~ **67-5d-205. Staffing.**

1568 (1) The [~~Commission on Criminal and Juvenile Justice~~] division shall provide staff to

1569 the council and any subcommittees established by the council.

1570 (2) Staff assigned to the council shall:

- 1571 (a) provide assistance to the council and the council's committees and subcommittees;
- 1572 (b) receive complaints regarding victim's rights violations from victims and other
- 1573 interested persons and forward the complaints to the appropriate committee within the council;
- 1574 and

1575 (c) perform any duties assigned by the council to fulfill the council's duties described in

1576 Section 67-5d-203.

1577 Section 29. Section **67-5d-301** is enacted to read:

1578 **Part 3. Utah Office for Victims of Crime**1579 **67-5d-301. Office creation and placement within the division.**1580 (1) There is created the Utah Office for Victims of Crime in the division.1581 (2) The director may request assistance from the division, the board, the Office of the
1582 Attorney General, the Department of Public Safety, or any other state agency in conducting
1583 research or monitoring programs under this part.1584 Section 30. Section **67-5d-302**, which is renumbered from Section 63M-7-507 is
1585 renumbered and amended to read:1586 ~~[63M-7-507].~~ **67-5d-302. Director -- Appointment and functions.**1587 (1) The ~~[executive director of the Commission on Criminal and Juvenile Justice]~~
1588 division director, after consulting with the attorney general and the board, shall appoint a
1589 director to carry out the provisions of this part.

1590 (2) The director shall:

1591 (a) be an experienced administrator with a background in at least one of the following
1592 fields:

1593 (i) social work;

1594 (ii) psychology;

1595 (iii) criminal justice;

1596 (iv) law; or

1597 (v) another field related to the fields described in Subsections (2)(a)(i) through (iv);

1598 (b) demonstrate an understanding of the needs of crime victims and of services to
1599 victims; and

1600 (c) devote the director's time and capacity to the director's duties.

1601 (3) In addition to the requirements under Subsection (2), the director shall:

1602 (a) hire staff, including reparations and assistance officers, as necessary;

1603 (b) act when necessary as a reparations officer in deciding an initial reparations claim;

1604 (c) possess the same investigation and decision-making authority as the reparations
1605 officers;1606 (d) hear appeals from the decisions of the reparations officers, unless the director acted
1607 as a reparations officer on the initial reparations claim;

1608 (e) serve as a liaison between the office and the board;

- 1609 (f) serve as the public relations representative of the office;
- 1610 (g) provide for payment of all administrative salaries, fees, and expenses incurred by
1611 the staff of the board, to be paid out of appropriations from the fund;
- 1612 (h) cooperate with the state treasurer and the state Division of Finance in causing the
1613 funds in the fund to be invested and the fund's investments sold or exchanged and the proceeds
1614 and income collected;
- 1615 (i) apply for, receive, allocate, disburse, and account for, subject to approval and in
1616 conformance with policies adopted by the board, all grant funds made available by the United
1617 States, the state, foundations, corporations, and other businesses, agencies, or individuals;
- 1618 (j) obtain and utilize the services of other governmental agencies upon request; and
- 1619 (k) act in any other capacity or perform any other acts necessary for the office or board
1620 to successfully fulfill the office's or board's statutory duties and objectives.

1621 Section 31. Section **67-5d-303**, which is renumbered from Section 63M-7-508 is
1622 renumbered and amended to read:

1623 ~~[63M-7-508].~~ **67-5d-303. Reparations officers.**

1624 The reparations officers shall in addition to any assignments made by the director:

- 1625 (1) hear and determine all matters relating to a reparations claim and reinvestigate or
1626 reopen a reparations claim without regard to statutes of limitation or periods of prescription;
- 1627 (2) obtain from prosecuting attorneys, law enforcement officers, and other criminal
1628 justice agencies, investigations and data to enable the reparations officer to determine whether
1629 and to what extent a claimant qualifies for reparations;
- 1630 (3) as determined necessary by the reparations officers, hold hearings, administer oaths
1631 or affirmations, examine any individual under oath or affirmation, issue subpoenas requiring
1632 the attendance and giving of testimony of witnesses, require the production of any books,
1633 papers, documents, or other evidence which may contribute to the reparations officer's ability
1634 to determine particular reparation awards;
- 1635 (4) determine who is a victim or dependent;
- 1636 (5) award reparations or other benefits determined to be due under this part and the
1637 rules of the board made in accordance with Title 63G, Chapter 3, Utah Administrative
1638 Rulemaking Act;
- 1639 (6) take notice of judicially recognized facts and general, technical, and scientific facts

1640 within the reparations officers' specialized knowledge;

1641 (7) advise and assist the board in developing policies recognizing the rights, needs, and
1642 interests of crime victims;

1643 (8) render periodic reports as requested by the board concerning:

1644 (a) the reparations officers' activities; and

1645 (b) the manner in which the rights, needs, and interests of crime victims are being
1646 addressed by the state's criminal justice system;

1647 (9) establish priorities for assisting elderly victims of crime or those victims facing
1648 extraordinary hardships;

1649 (10) cooperate with the State Commission on Criminal and Juvenile Justice to develop
1650 information regarding crime victims' problems and programs; and

1651 (11) assist the director in publicizing the provisions of the office, including the
1652 procedures for obtaining reparation, and in encouraging law enforcement agencies, health
1653 providers, and other related officials to take reasonable care to ensure that victims are informed
1654 about the provisions of this part and the procedure for applying for reparation.

1655 Section 32. Section **67-5d-304**, which is renumbered from Section 63M-7-503 is
1656 renumbered and amended to read:

1657 ~~[63M-7-503]~~. **67-5d-304. Restitution -- Reparations not to supplant**
1658 **restitution -- Assignment of claim for restitution judgment to reparations office.**

1659 (1) A reparations award may not supplant restitution as established under Title 77,
1660 Chapter 38a, Crime Victims Restitution Act, or as established by any other provisions.

1661 (2) The court may not reduce an order of restitution based on a reparations award.

1662 (3) (a) (i) If, due to reparation payments to a victim, the office is assigned under
1663 Section [~~63M-7-519~~] 67-5d-316 a claim for the victim's judgment for restitution or a portion of
1664 the restitution, the office may file with the sentencing court a notice of restitution listing the
1665 amounts or estimated future amounts of payments made or anticipated to be made to or on
1666 behalf of the victim.

1667 (ii) The office may provide a restitution notice to the victim or victim's representative
1668 before or at sentencing.

1669 (iii) The office's failure to provide notice under Subsection (3)(a) does not invalidate
1670 the imposition of the judgment or order of restitution if the defendant is given the opportunity

1671 to object and be heard as provided in this part.

1672 (b) (i) Any objection by the defendant to the imposition or amount of restitution shall
1673 be made at the time of sentencing or in writing within 20 days after the day on which the
1674 defendant receives the notice described in Subsection (3)(a), to be filed with the court and a
1675 copy mailed to the office.

1676 (ii) Upon the filing of the objection, the court shall allow the defendant a full hearing
1677 on the issue in accordance with Subsection 77-38a-302(4).

1678 (iii) The amount of restitution sought by the office may be updated at any time, subject
1679 to the right of the defendant to object.

1680 (4) If no objection is made or filed by the defendant under Subsection (3), then upon
1681 conviction and sentencing, the court shall enter a judgment for complete restitution under
1682 Subsections 76-3-201(4)(c) and (d) and identify the office as the assignee of the assigned
1683 portion of the judgment and order of restitution.

1684 (5) If the notice of restitution is filed after sentencing but during the term of probation
1685 or parole, the court or Board of Pardons shall modify any existing civil judgment and order of
1686 restitution to include expenses paid by the office on behalf of the victim and identify the office
1687 as the assignee of the assigned portion of the judgment and order of restitution. If no judgment
1688 or order of restitution has been entered, the court shall enter a judgment for complete restitution
1689 and court-ordered restitution under Sections 77-38a-302 and 77-38a-401.

1690 Section 33. Section 67-5d-305, which is renumbered from Section 63M-7-509 is
1691 renumbered and amended to read:

1692 ~~[63M-7-509].~~ **67-5d-305. Grounds for eligibility.**

1693 (1) A victim is eligible for a reparations award under this part if:

1694 (a) the claimant is:

1695 (i) a victim of criminally injurious conduct;

1696 (ii) a dependent of a deceased victim of criminally injurious conduct; or

1697 (iii) a representative acting on behalf of one of the above;

1698 (b) (i) the criminally injurious conduct occurred in Utah; or

1699 (ii) the victim is a Utah resident who suffers injury or death as a result of criminally
1700 injurious conduct inflicted in a state, territory, or country that does not provide a crime victims'
1701 compensation program;

1702 (c) the application is made in writing in a form that conforms substantially to that
1703 prescribed by the board;

1704 (d) the criminally injurious conduct is reported to a law enforcement officer, in the law
1705 enforcement officer's capacity as a law enforcement officer, or another federal or state
1706 investigative agency;

1707 (e) the claimant or victim cooperates with the appropriate law enforcement agencies
1708 and prosecuting attorneys in efforts to apprehend or convict the perpetrator of the alleged
1709 offense; and

1710 (f) the criminally injurious conduct occurred after December 31, 1986.

1711 (2) A reparations award may be made to a victim regardless of whether any individual
1712 is arrested, prosecuted, or convicted of the criminally injurious conduct giving rise to a
1713 reparations claim.

1714 Section 34. Section **67-5d-306**, which is renumbered from Section 63M-7-510 is
1715 renumbered and amended to read:

1716 ~~[63M-7-510]~~. **67-5d-306. Ineligible individuals -- Fraudulent reparations**
1717 **claims -- Penalties.**

1718 (1) The following individuals are not eligible to receive a reparations award:

1719 (a) an individual who does not meet all of the provisions set forth in Section
1720 ~~[63M-7-509]~~ 67-5d-305;

1721 (b) the offender;

1722 (c) an accomplice of the offender;

1723 (d) an individual whose receipt of a reparations award would unjustly benefit the
1724 offender, accomplice, or another individual reasonably suspected of participating in the
1725 offense;

1726 (e) the victim of a motor vehicle injury who was the owner or operator of the motor
1727 vehicle and was not at the time of the injury in compliance with the state motor vehicle
1728 insurance laws;

1729 (f) a convicted offender serving a sentence of imprisonment in any prison or jail or
1730 residing in any other correctional facility;

1731 (g) an individual who is on probation or parole if the circumstances surrounding the
1732 offense of which the individual is a victim is a violation of the individual's probation or parole;

1733 (h) an individual whose injuries are the result of criminally injurious conduct that
1734 occurred in a prison, jail, or another correctional facility while the individual was incarcerated;
1735 and

1736 (i) an individual who:

1737 (i) submits a fraudulent claim; or

1738 (ii) misrepresents a material fact in requesting a reparations award.

1739 (2) (a) An individual may not knowingly:

1740 (i) submit a fraudulent claim; or

1741 (ii) misrepresent a material fact in requesting a reparations award.

1742 (b) A violation of Subsection (2)(a) is:

1743 (i) a class B misdemeanor if:

1744 (A) the individual who violates Subsection (2)(a) does not receive a reparations award;

1745 or

1746 (B) the value of the reparations award received is less than \$500;

1747 (ii) a class A misdemeanor if the value of the reparations award received is or exceeds
1748 \$500 but is less than \$1,500;

1749 (iii) a third degree felony if the value of the reparations award received is or exceeds
1750 \$1,500 but is less than \$5,000; and

1751 (iv) a second degree felony if the value of the reparations award received is or exceeds
1752 \$5,000.

1753 (3) The state attorney general may prosecute violations under this section or may make
1754 arrangements with county or city attorneys for the prosecution of violations under this section
1755 when the attorney general cannot conveniently prosecute.

1756 (4) (a) A claimant who is not eligible to receive a reparations award under Subsection
1757 (1) but receives a reparations award shall reimburse the fund for the amount of the reparations
1758 award.

1759 (b) The office may bring a civil action against a victim who does not reimburse the
1760 fund for the amount of the reparations award in accordance with Subsection (4)(a).

1761 Section 35. Section **67-5d-307**, which is renumbered from Section 63M-7-511 is
1762 renumbered and amended to read:

1763 ~~[63M-7-511]~~. **67-5d-307. Compensable losses and amounts.**

1764 A reparations award under this part may be made if:
1765 (1) the reparations officer finds the reparations claim satisfies the requirements for the
1766 reparations award under the provisions of this part and the rules of the board;
1767 (2) money is available in the fund;
1768 (3) the individual for whom the reparations award is to be paid is otherwise eligible
1769 under this part; and
1770 (4) the reparations claim is for an allowable expense incurred by the victim, as follows:
1771 (a) reasonable and necessary charges incurred for products, services, and
1772 accommodations;
1773 (b) inpatient and outpatient medical treatment and physical therapy, subject to rules
1774 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1775 Act;
1776 (c) mental health counseling that:
1777 (i) is set forth in a mental health treatment plan that is approved before any payment is
1778 made by a reparations officer; and
1779 (ii) qualifies within any further rules made by the board in accordance with Title 63G,
1780 Chapter 3, Utah Administrative Rulemaking Act;
1781 (d) actual loss of past earnings and anticipated loss of future earnings because of a
1782 death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the
1783 individual's weekly gross salary or wages or the maximum amount allowed under the state
1784 workers' compensation statute;
1785 (e) care of minor children enabling a victim or spouse of a victim, but not both, to
1786 continue gainful employment at a rate per child per week as determined under rules established
1787 by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
1788 (f) funeral and burial expenses for death caused by the criminally injurious conduct,
1789 subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah
1790 Administrative Rulemaking Act;
1791 (g) loss of support to a dependent not otherwise compensated for a pecuniary loss for
1792 personal injury, for as long as the dependence would have existed had the victim survived, at a
1793 rate not to exceed 66-2/3% of the individual's weekly salary or wages or the maximum amount
1794 allowed under the state workers' compensation statute, whichever is less;

1795 (h) personal property necessary and essential to the health or safety of the victim as
1796 defined by rules made by the board in accordance with Title 63G, Chapter 3, Utah
1797 Administrative Rulemaking Act; and

1798 (i) medical examinations, subject to rules made by the board in accordance with Title
1799 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from
1800 Sections [~~63M-7-509, 63M-7-512, and 63M-7-513~~] 67-5d-305, 67-5d-309, and 67-5d-310.

1801 Section 36. Section **67-5d-308**, which is renumbered from Section 63M-7-511.5 is
1802 renumbered and amended to read:

1803 ~~[63M-7-511.5].~~ **67-5d-308. Limitation of reparations awards.**

1804 (1) (a) Except as provided in Subsection (1)(b), a reparations award may not exceed
1805 \$25,000.

1806 (b) Notwithstanding Subsection (1)(a), a reparations award for medical expenses
1807 resulting from serious bodily injury or substantial bodily injury may not exceed \$50,000.

1808 (2) (a) A reparations award under Subsection (1) includes any reparations award for a
1809 secondary victim.

1810 (b) Unless otherwise requested by the claimant, the office shall pay a reparations award
1811 for the victim before a reparations award for a secondary victim.

1812 (c) The reparations officer shall determine the priority of payment among multiple
1813 secondary victims on a single reparations claim.

1814 Section 37. Section **67-5d-309**, which is renumbered from Section 63M-7-512 is
1815 renumbered and amended to read:

1816 ~~[63M-7-512].~~ **67-5d-309. Reparations reduction.**

1817 (1) Reparations otherwise payable to a claimant may be reduced or denied as follows:

1818 (a) the economic loss upon which the claim is based has been or could be recouped
1819 from other persons, including collateral sources;

1820 (b) the reparations officer considers the reparations claim unreasonable because of the
1821 misconduct of the claimant; or

1822 (c) the victim did not use a facility or health care provider which would be covered by
1823 a collateral source.

1824 (2) When two or more dependents are entitled to a reparations award as a result of a
1825 victim's death, the reparations officer shall apportion the reparations award among the

1826 dependents.

1827 Section 38. Section **67-5d-310**, which is renumbered from Section 63M-7-513 is
1828 renumbered and amended to read:

1829 ~~[63M-7-513]~~. **67-5d-310**. **Collateral sources.**

1830 (1) (a) An order of restitution may not be considered readily available as a collateral
1831 source.

1832 (b) Receipt of a reparations award under this part is considered an assignment of the
1833 victim's rights to restitution from the offender.

1834 (2) The victim may not discharge a claim against an individual or entity without the
1835 office's written permission and shall fully cooperate with the office in pursuing the office's
1836 right of reimbursement, including providing the office with any evidence in the victim's
1837 possession.

1838 (3) The office's right of reimbursement applies regardless of whether the victim is fully
1839 compensated for the victim's losses.

1840 (4) Notwithstanding Subsection [~~63M-7-512(1)(a)~~] 67-5d-509(1)(a), a victim of a
1841 sexual offense who requests testing of the victim's self may be reimbursed for the costs of the
1842 HIV test only as provided in Subsection 76-5-503(4).

1843 Section 39. Section **67-5d-311**, which is renumbered from Section 63M-7-514 is
1844 renumbered and amended to read:

1845 ~~[63M-7-514]~~. **67-5d-311**. **Notification of claimant -- Suspension of**
1846 **proceedings.**

1847 (1) (a) The office shall immediately notify the claimant in writing of a reparations
1848 award and shall forward to the Division of Finance a certified copy of the reparations award
1849 and a warrant request for the amount of the reparations award.

1850 (b) The Division of Finance shall pay the claimant the amount submitted to the
1851 division, out of the fund.

1852 (c) If money in the fund is temporarily depleted, the office shall place claimants
1853 approved to receive a reparations award on a waiting list and provide the reparations awards as
1854 funds are available in the order in which the reparations awards are approved.

1855 (2) The reparations officer may suspend the proceedings pending disposition of a
1856 criminal prosecution that is commenced or is imminent.

1857 Section 40. Section **67-5d-312**, which is renumbered from Section 63M-7-515 is
1858 renumbered and amended to read:

1859 ~~[63M-7-515]~~. **67-5d-312. Rules for contested reparations claims --**
1860 **Exemption from Administrative Procedures Act.**

1861 (1) Rules for procedures for contested determinations by a reparations officer shall be
1862 adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1863 (2) The office is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

1864 Section 41. Section **67-5d-313**, which is renumbered from Section 63M-7-516 is
1865 renumbered and amended to read:

1866 ~~[63M-7-516]~~. **67-5d-313. Waiver of privilege.**

1867 (1) (a) A victim who is a claimant waives any privilege as to communications or
1868 records relevant to an issue of the physical, mental, or emotional conditions of the victim
1869 except for the attorney-client privilege.

1870 (b) The waiver described in Subsection (1)(a) applies only to reparations officers, the
1871 director, the board, and legal counsel.

1872 (2) A claimant may be required to supply any additional medical or psychological
1873 reports available relating to the injury or death for which compensation is claimed.

1874 (3) (a) The reparations officer hearing a reparations claim or an appeal from a
1875 reparations claim shall make available to the claimant a copy of the report.

1876 (b) If the victim is deceased, the director or the director's appointee, on request, shall
1877 furnish the claimant a copy of the report unless dissemination of that copy is prohibited by law.

1878 Section 42. Section **67-5d-314**, which is renumbered from Section 63M-7-517 is
1879 renumbered and amended to read:

1880 ~~[63M-7-517]~~. **67-5d-314. Additional testing.**

1881 (1) If the mental, physical, or emotional condition of a victim is material to a
1882 reparations claim, the reparations officer, director, or chair of the board who hears the
1883 reparations claim or the appeal may order the claimant to submit to a mental or physical
1884 examination by a physician or psychologist and may recommend to the court to order an
1885 autopsy of a deceased victim.

1886 (2) The court may order an additional examination for good cause shown and shall
1887 provide notice to the individual to be examined and the individual's representative.

1888 (3) All reports from additional examinations shall set out findings, including results of
1889 all tests made, diagnoses, prognoses, other conclusions, and reports of earlier examinations of
1890 the same conditions.

1891 (4) A copy of the report shall be made available to the victim or the representative of
1892 the victim unless dissemination of that copy is prohibited by law.

1893 Section 43. Section **67-5d-315**, which is renumbered from Section 63M-7-518 is
1894 renumbered and amended to read:

1895 ~~[63M-7-518]~~. **67-5d-315. Failure to comply.**

1896 If an individual refuses to comply with an order under this part or asserts a privilege,
1897 except privileges arising from the attorney-client relationship, to withhold or suppress evidence
1898 relevant to a reparations claim, the director or reparations officer may make any appropriate
1899 determination including denial of the reparations claim.

1900 Section 44. Section **67-5d-316**, which is renumbered from Section 63M-7-519 is
1901 renumbered and amended to read:

1902 ~~[63M-7-519]~~. **67-5d-316. Assignment of recovery -- Reimbursement.**

1903 (1) (a) By accepting a reparations award, the victim:

1904 (i) automatically assigns to the office any claim the victim may have relating to
1905 criminally injurious conduct in the reparations claim; and

1906 (ii) is required to reimburse the office if the victim recovers any money relating to the
1907 criminally injurious conduct.

1908 (b) The office's right of assignment and reimbursement under Subsection (1)(a) is
1909 limited to the lesser of:

1910 (i) the amount paid by the office; or

1911 (ii) the amount recovered by the victim from the third party.

1912 (c) The office may be reimbursed under Subsection (1)(a) regardless of whether the
1913 office exercises the office's right of assignment under Subsection (1)(a).

1914 (2) The board, with the concurrence of the director, may reduce the office's right of
1915 reimbursement if the board determines that:

1916 (a) the reduction will benefit the fund; or

1917 (b) the victim has ongoing expenses related to the offense upon which the reparations
1918 claim is based and the benefit to the victim of reducing the office's right of reimbursement

1919 exceeds the benefit to the office of receiving full reimbursement.

1920 (3) The office reserves the right to make a claim for reimbursement on behalf of the
1921 victim and the victim may not impair the office's claim or the office's right of reimbursement.

1922 Section 45. Section **67-5d-317**, which is renumbered from Section 63M-7-521 is
1923 renumbered and amended to read:

1924 ~~[63M-7-521]~~. **67-5d-317. Reparations award -- Payment methods -- Claims**
1925 **against the award.**

1926 (1) (a) Except as provided in Subsection (1)(b), a reparations officer may provide for
1927 the payment of a reparations award in a lump sum or in installments.

1928 (b) (i) The reparations officer shall pay the part of a reparations award equal to the
1929 amount of economic loss accrued to the date of the reparations award in a lump sum.

1930 (ii) A reparations officer may not pay allowable expense that would accrue after an
1931 initial reparations award is made in a lump sum.

1932 (iii) Except as provided in Subsection (2), a reparations officer shall award the part of a
1933 reparations award that may not be paid in a lump sum under this Subsection (1)(b) in
1934 installments.

1935 (2) At the request of the claimant, the reparations officer may convert future economic
1936 loss installment payments, other than allowable expense, to a lump sum payment, discounted to
1937 present value, but only upon a finding by the reparations officer that the reparations award in a
1938 lump sum will promote the interests of the claimant.

1939 (3) (a) A reparations award for future economic loss payable in installments may be
1940 made only for a period for which the reparations officer can reasonably determine future
1941 economic loss.

1942 (b) The reparations officer may reconsider and modify a reparations award for future
1943 economic loss payable in installments, upon the reparations officer's finding that a material and
1944 substantial change of circumstances has occurred.

1945 (4) A reparations award is not subject to execution, attachment, or garnishment, except
1946 that a reparations award for allowable expense is not exempt from a claim of a creditor to the
1947 extent that the creditor provided products, services, or accommodations, the costs of which are
1948 included in the reparations award.

1949 (5) An assignment or agreement to assign a reparations award for loss accruing in the

1950 future is unenforceable, except:

1951 (a) an assignment of a reparations award of reparations for work loss to secure payment
1952 of alimony, maintenance, or child support;

1953 (b) an assignment of a reparations award for allowable expense to the extent that the
1954 benefits are for the cost of products, services, or accommodations necessitated by the injury or
1955 death on which the reparations claim is based and are provided or to be provided by the
1956 assignee; or

1957 (c) an assignment to repay a loan obtained to pay for the obligations or expenses
1958 described in Subsection (5)(a) or (b).

1959 Section 46. Section **67-5d-318**, which is renumbered from Section 63M-7-521.5 is
1960 renumbered and amended to read:

1961 ~~[63M-7-521.5].~~ **67-5d-318. Payments to medical service providers.**

1962 (1) (a) Except as provided in Subsection (2), a medical service provider who accepts
1963 payment from the office shall agree to accept payments as payment in full on behalf of the
1964 victim or claimant and may not attempt to collect further payment from the victim or the
1965 claimant for services for which the office has made payment.

1966 (b) In the event the office is unable to make full payment in accordance with the
1967 office's rules, the medical service provider may collect from the victim or claimant, but not
1968 more than the amount the provider would have received from the office.

1969 (2) (a) When a medical service provider receives notice that a reparations claim has
1970 been filed, the medical service provider may not, before the office determines whether to issue
1971 a reparations award, engage in debt collection for the claim, including:

1972 (i) repeatedly calling or writing to a victim and threatening to refer unpaid health care
1973 costs to a debt collection agency, attorney, or other person for collection; or

1974 (ii) filing for or pursuing a legal remedy for payment of unpaid health care costs.

1975 (b) The statute of limitations for collecting a debt is tolled during the time in which a
1976 request for a reparations award is being reviewed by the office.

1977 (3) The office may:

1978 (a) use the fee schedule utilized by the Utah Public Employees Health Plan or any other
1979 fee schedule adopted by the board; and

1980 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

1981 Rulemaking Act, necessary to implement the fee schedule adopted in accordance with this
1982 section.

1983 Section 47. Section **67-5d-319**, which is renumbered from Section 63M-7-522 is
1984 renumbered and amended to read:

1985 **[63M-7-522]. 67-5d-319. Emergency reparations award.**

1986 (1) If the reparations officer determines that the claimant will suffer financial hardship
1987 unless an emergency reparations award is made, and it appears likely that a final reparations
1988 award will be made, an amount may be paid to the claimant, to be deducted from the final
1989 reparations award or repaid by and recoverable from the claimant to the extent that it exceeds
1990 the final reparations award.

1991 (2) The board may limit emergency reparations awards under Subsection (1) to any
1992 amount the board considers necessary.

1993 Section 48. Section **67-5d-320**, which is renumbered from Section 63M-7-523 is
1994 renumbered and amended to read:

1995 **[63M-7-523]. 67-5d-320. Review of reparations award decision.**

1996 (1) The reparations officer shall review at least annually every reparations award being
1997 paid in installments.

1998 (2) An order on review of a reparations award does not require refund of amounts
1999 previously paid unless the reparations award was obtained by fraud or a material mistake of
2000 fact.

2001 Section 49. Section **67-5d-321**, which is renumbered from Section 63M-7-524 is
2002 renumbered and amended to read:

2003 **[63M-7-524]. 67-5d-321. Attorney fees.**

2004 (1) The claims procedures shall be sufficiently simple that the assistance of an attorney
2005 is unnecessary, and no attorney fees may be paid for the assistance of an attorney or any other
2006 representative in filing the reparations claim or providing information to the reparations officer.

2007 (2) Attorney fees may be granted in the following circumstances and shall be paid out
2008 of the reparations award not to exceed 15% of the amount of the reparations award:

2009 (a) when a reparations award is denied and, after a hearing, the decision to deny is
2010 overturned; or

2011 (b) when minor dependents of a deceased victim require assistance in establishing a

2012 trust or determining a guardian.

2013 (3) (a) An attorney or any other person providing assistance in a reparations claim, who
2014 contracts for or receives sums not allowed under this part, is guilty of a class B misdemeanor.

2015 (b) This Subsection (3) does not apply to attorneys who assist the victim in filing a
2016 civil action against the perpetrator.

2017 Section 50. Section **67-5d-322**, which is renumbered from Section 63M-7-525 is
2018 renumbered and amended to read:

2019 **[63M-7-525]. 67-5d-322. Purpose -- Not entitlement program.**

2020 (1) (a) The purpose of the office is to assist victims of criminally injurious conduct
2021 who may be eligible for assistance from the fund.

2022 (b) Reparation to a victim under this part is limited to the money available in the fund.

2023 (2) (a) The assistance program described in Subsection (1) is not an entitlement
2024 program.

2025 (b) A reparations award may be limited or denied as determined appropriate by the
2026 board.

2027 (c) Failure to grant a reparations award does not create a cause of action against the
2028 office, the state, or any of its subdivisions and there is no right to judicial review over the
2029 decision whether or not to grant a reparations award.

2030 (3) A cause of action based on a failure to give or receive the notice required by this
2031 part does not accrue to any person against the state, any of its agencies or local subdivisions,
2032 any of their law enforcement officers or other agents or employees, or any health care or
2033 medical provider or its agents or employees nor does it affect or alter any requirement for filing
2034 or payment of a reparations claim.

2035 Section 51. Section **67-5d-323**, which is renumbered from Section 63M-7-526 is
2036 renumbered and amended to read:

2037 **[63M-7-526]. 67-5d-323. Crime Victims Reparations Fund.**

2038 (1) (a) There is created an expendable special revenue fund known as the "Crime
2039 Victim Reparations Fund" to be administered and distributed as provided in this section by the
2040 office in cooperation with the Division of Finance.

2041 (b) The fund shall consist of:

2042 (i) appropriations by the Legislature; and

2043 (ii) funds collected under Subsections (2) and (3).

2044 (c) Money deposited in this fund is for victim reparations, other victim services, and, as
2045 appropriated, for administrative costs of the office.

2046 (2) (a) A percentage of the income earned by inmates working for correctional
2047 industries in a federally certified private sector/prison industries enhancement program shall be
2048 deposited in the fund.

2049 (b) The percentage of income deducted from inmate pay under Subsection (2)(a) shall
2050 be determined by the executive director of the Department of Corrections in accordance with
2051 the requirements of the private sector/prison industries enhancement program.

2052 (3) (a) Judges are encouraged to, and may in their discretion, impose additional
2053 reparations to be paid into the fund by convicted criminals.

2054 (b) The additional discretionary reparations may not exceed the statutory maximum
2055 fine permitted by Title 76, Utah Criminal Code, for that offense.

2056 Section 52. Section **67-5d-401**, which is renumbered from Section 63M-7-504 is
2057 renumbered and amended to read:

2058 **Part 4. Crime Victim Reparations Assistance Board**

2059 ~~[63M-7-504].~~ **67-5d-401. Crime Victim Reparations and Assistance Board**

2060 -- **Members.**

2061 (1) (a) A Crime Victim Reparations and Assistance Board is created in the division,
2062 consisting of seven members appointed by ~~[the governor with the advice and consent of the~~
2063 ~~Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies]~~ the attorney general in
2064 consultation with the division director.

2065 (b) The membership of the board shall consist of:

2066 (i) a member of the bar of this state;

2067 (ii) a victim of criminally injurious conduct;

2068 (iii) a licensed physician;

2069 (iv) a representative of law enforcement;

2070 (v) a mental health care provider;

2071 (vi) a victim advocate; and

2072 (vii) a private citizen.

2073 (c) The ~~[governor]~~ attorney general may appoint a chair of the board who shall serve

2074 for a period of time prescribed by the governor, not to exceed the length of the chair's term.

2075 The board may elect a vice chair to serve in the absence of the chair.

2076 (d) The board may hear appeals from administrative decisions as provided in rules
2077 adopted pursuant to Section [~~63M-7-515~~] 67-5d-312.

2078 (2) (a) Except as required by Subsection (2)(b), as terms of current board members
2079 expire, the [~~governor~~] attorney general shall appoint each new member or reappointed member
2080 to a four-year term.

2081 (b) Notwithstanding the requirements of Subsection (2)(a), the [~~governor~~] attorney
2082 general shall, at the time of appointment or reappointment, adjust the length of terms to ensure
2083 that the terms of board members are staggered so that approximately half of the board is
2084 appointed every two years.

2085 (c) A member may be reappointed to one successive term in addition to a member's
2086 initial full-term appointment.

2087 (3) (a) When a vacancy occurs in the membership for any reason, the replacement shall
2088 be appointed for the unexpired term.

2089 (b) A member resigning from the board shall serve until the member's successor is
2090 appointed and qualified.

2091 (4) A member may not receive compensation or benefits for the member's service, but
2092 may receive per diem and travel expenses in accordance with:

2093 (a) Section 63A-3-106;

2094 (b) Section 63A-3-107; and

2095 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
2096 63A-3-107.

2097 (5) The board shall meet at least once quarterly but may meet more frequently as
2098 necessary.

2099 (6) A member shall comply with the conflict of interest provisions described in Title
2100 63G, Chapter 24, Part 3, Conflicts of Interest.

2101 Section 53. Section ~~67-5d-402~~, which is renumbered from Section 63M-7-506 is
2102 renumbered and amended to read:

2103 [~~63M-7-506~~]. 67-5d-402. Functions of board.

2104 (1) The board shall:

- 2105 (a) adopt a description of the office and prescribe the general operation of the board;
- 2106 (b) prescribe policy for the office;
- 2107 (c) adopt rules to implement and administer this part in accordance with Title 63G,
2108 Chapter 3, Utah Administrative Rulemaking Act, which may include setting of ceilings on
2109 reparations, defining of terms not specifically stated in this part, and establishing of rules
2110 governing attorney fees;
- 2111 (d) prescribe forms for applications for reparations;
- 2112 (e) review all reparations awards made by the reparations staff, although the board may
2113 not reverse or modify reparations awards authorized by the reparations staff;
- 2114 (f) render an annual report to the governor and the Legislature regarding the staff's and
2115 the board's activities;
- 2116 (g) cooperate with the director and the director's staff in formulating standards for the
2117 uniform application of Section [~~63M-7-509~~] 67-5d-305, taking into consideration the rates and
2118 amounts of reparation payable for injuries and death under other laws of this state and the
2119 United States;
- 2120 (h) allocate money available in the fund to victims of criminally injurious conduct for
2121 reparations claims;
- 2122 (i) allocate money available to other victim services as provided by administrative rule
2123 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, once a
2124 sufficient reserve has been established for reparation claims; and
- 2125 (j) approve the allocation and disbursement of funds made available to the office by the
2126 United States, the state, foundations, corporations, or other entities or individuals to
2127 subgrantees from private, non-profit, and governmental entities operating qualified statewide
2128 assistance programs.
- 2129 (2) All rules, or other statements of policy, along with application forms specified by
2130 the board, are binding upon the director, the reparations officers, assistance officers, and other
2131 staff.
- 2132 (3) The board may request assistance from the division, the office, the Office of the
2133 Attorney General, the Department of Public Safety, or any other state agency in conducting
2134 research or monitoring programs under this part.
- 2135 Section 54. Section **67-5d-501**, which is renumbered from Section 67-5b-102 is

2136 renumbered and amended to read:

2137 **Part 5. Children's Justice Center Program**

2138 ~~[67-5b-102]~~. **67-5d-501. Children's Justice Center -- Requirements of**
 2139 **center -- Purposes of center.**

2140 (1) (a) There is established the Children's Justice Center Program to provide a
 2141 comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a
 2142 facility known as a Children's Justice Center.

2143 (b) The ~~[attorney general]~~ division director shall administer the program.

2144 (c) The ~~[attorney general]~~ division director shall:

2145 (i) allocate the funds appropriated by a line item pursuant to Section ~~[67-5b-103]~~

2146 67-5d-502;

2147 (ii) administer applications for state and federal grants and subgrants;

2148 (iii) maintain an advisory board that is associated with the program to comply with
 2149 requirements of grants that are associated with the program;

2150 (iv) assist in the development of new centers;

2151 (v) coordinate services between centers;

2152 (vi) contract with counties and other entities for the provision of services;

2153 (vii) ~~[(A)]~~ provide training, technical assistance, and evaluation to centers; ~~[and]~~

2154 ~~[(B)]~~ (viii) ensure that any training described in Subsection (1)(c)(vii)~~[(A)]~~ complies
 2155 with Title 63G, Chapter 22, State Training and Certification Requirements; and

2156 ~~[(viii)]~~ (ix) provide other services to comply with established minimum practice
 2157 standards as required to maintain the state's and centers' eligibility for grants and subgrants.

2158 (2) (a) The ~~[attorney general]~~ division director shall establish Children's Justice
 2159 Centers, satellite offices, or multidisciplinary teams in Beaver County, Box Elder County,
 2160 Cache County, Carbon County, Davis County, Duchesne County, Emery County, Grand
 2161 County, Iron County, Juab County, Kane County, Salt Lake County, San Juan County, Sanpete
 2162 County, Sevier County, Summit County, Tooele County, Uintah County, Utah County,
 2163 Wasatch County, Washington County, and Weber County.

2164 (b) The ~~[attorney general]~~ division director may establish other centers, satellites, or
 2165 multidisciplinary teams within a county and in other counties of the state.

2166 (3) The ~~[attorney general]~~ division director and each center shall:

2167 (a) coordinate the activities of the public agencies involved in the investigation and
2168 prosecution of child abuse cases and the delivery of services to child abuse victims and child
2169 abuse victims' families;

2170 (b) provide a neutral, child-friendly program, where interviews are conducted and
2171 services are provided to facilitate the effective and appropriate disposition of child abuse cases
2172 in juvenile, civil, and criminal court proceedings;

2173 (c) facilitate a process for interviews of child abuse victims to be conducted in a
2174 professional and neutral manner;

2175 (d) obtain reliable and admissible information that can be used effectively in child
2176 abuse cases in the state;

2177 (e) maintain a multidisciplinary team that includes representatives of public agencies
2178 involved in the investigation and prosecution of child abuse cases and in the delivery of
2179 services to child abuse victims and child abuse victims' families;

2180 (f) hold regularly scheduled case reviews with the multidisciplinary team;

2181 (g) coordinate and track:

2182 (i) investigation of the alleged offense; and

2183 (ii) preparation of prosecution;

2184 (h) maintain a working protocol that addresses the center's procedures for conducting
2185 forensic interviews and case reviews, and for ensuring a child abuse victim's access to medical
2186 and mental health services;

2187 (i) maintain a system to track the status of cases and the provision of services to child
2188 abuse victims and child abuse victims' families;

2189 (j) provide training for professionals involved in the investigation and prosecution of
2190 child abuse cases and in the provision of related treatment and services;

2191 (k) enhance community understanding of child abuse cases; and

2192 (l) provide as many services as possible that are required for the thorough and effective
2193 investigation of child abuse cases.

2194 (4) To assist a center in fulfilling the requirements and statewide purposes as provided
2195 in Subsection (3), each center may obtain access to any relevant juvenile court legal records
2196 and adult court legal records, unless sealed by the court.

2197 Section 55. Section **67-5d-502**, which is renumbered from Section 67-5b-103 is

2198 renumbered and amended to read:

2199 ~~[67-5b-103]~~. **67-5d-502. Appropriation and funding.**

2200 (1) Funding for centers under this section is intended to be broad-based, provided by a
2201 line item appropriation by the Legislature to the ~~[attorney general]~~ division, and is intended to
2202 include federal grant money, local government money, and private donations.

2203 (2) The money appropriated shall be used to contract with the county responsible for
2204 the operation and accountability of a center in accordance with Section ~~[67-5b-102]~~ 67-5d-501.

2205 (3) The money appropriated may be used by the program to provide resources and
2206 contract as needed to support the development of the program and the implementation of
2207 evidence-based practices and requirements.

2208 Section 56. Section **67-5d-503**, which is renumbered from Section 67-5b-104 is
2209 renumbered and amended to read:

2210 ~~[67-5b-104]~~. **67-5d-503. Requirements of a memorandum of**
2211 **understanding.**

2212 (1) Before a center may be established, a memorandum of understanding regarding
2213 participation in operation of the center shall be executed among:

2214 (a) the contracting county designated to oversee the operation and accountability of the
2215 center, including the budget, costs, personnel, and management pursuant to Title 51, Chapter
2216 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local
2217 Entities Act;

2218 (b) the ~~[Office of the Attorney General]~~ division;

2219 (c) at least one representative of a county or municipal law enforcement agency that
2220 investigates child abuse in the area to be served by the center;

2221 (d) the division of Child and Family Services;

2222 (e) the county or district attorney who routinely prosecutes child abuse cases in the area
2223 to be served by the center; and

2224 (f) at least one representative of any other governmental entity that participates in child
2225 abuse investigations or offers services to child abuse victims that desires to participate in the
2226 operation of the center.

2227 (2) A memorandum of understanding executed under this section shall include the
2228 agreement of each public agency, or its representative, described in Subsection (1) to cooperate

2229 in:

2230 (a) developing a comprehensive and cooperative multidisciplinary team approach to
2231 investigating child abuse;

2232 (b) reducing, to the greatest extent possible, the number of interviews required of a
2233 victim of child abuse to minimize the negative impact of the investigation on the child; and

2234 (c) developing, maintaining, and supporting, through the center, an environment that
2235 emphasizes the best interests of children.

2236 Section 57. Section **67-5d-504**, which is renumbered from Section 67-5b-105 is
2237 renumbered and amended to read:

2238 ~~[67-5b-105]~~. **67-5d-504. Local advisory boards -- Membership.**

2239 (1) The cooperating public agencies and other persons shall make up each center's local
2240 advisory board, which shall be composed of the following people from the county or area:

2241 (a) the local center director or the director's designee;

2242 (b) a district attorney or county attorney having criminal jurisdiction or any designee;

2243 (c) a representative of the attorney general's office, designated by the attorney general;

2244 (d) at least one official from a local law enforcement agency or the local law

2245 enforcement agency's designee;

2246 (e) the county executive or the county executive's designee;

2247 (f) a licensed nurse practitioner, physician assistant, or physician;

2248 (g) a licensed mental health professional;

2249 (h) a criminal defense attorney;

2250 (i) at least four members of the community at large;

2251 (j) a guardian ad litem or representative of the Office of Guardian Ad Litem,

2252 designated by the director;

2253 (k) a representative of the Division of Child and Family Services within the

2254 Department of Human Services, designated by the employee of the division who has

2255 supervisory responsibility for the county served by the center;

2256 (l) if a center serves more than one county, one representative from each county served,

2257 appointed by the county executive; and

2258 (m) additional members appointed as needed by the county executive.

2259 (2) The members on each local advisory board who serve due to public office as

2260 provided in Subsections (1)(b) through (e) shall select the remaining members. The members
2261 on each local advisory board shall select a chair of the local advisory board.

2262 (3) The local advisory board may not supersede the authority of the contracting county
2263 as designated in Section [~~67-5b-104~~] [67-5d-503](#).

2264 (4) Appointees and designees shall serve a term or terms as designated in the bylaws of
2265 the local advisory board.

2266 Section 58. Section **67-5d-505**, which is renumbered from Section 67-5b-107 is
2267 renumbered and amended to read:

2268 [~~67-5b-107~~]. **67-5d-505. Immunity -- Limited liability.**

2269 (1) Officers and employees performing services for two or more public agencies
2270 pursuant to contracts executed under the provisions of this part are considered to be officers
2271 and employees of the public agency employing their services, even though performing those
2272 functions outside of the territorial limits of any one of the contracting public agencies, and are
2273 considered to be officers and employees of public agencies in accordance with Title 63G,
2274 Chapter 7, Governmental Immunity Act of Utah.

2275 (2) The officers and employees of the center, while acting within the scope of their
2276 authority, are not subject to any personal or civil liability resulting from carrying out any of the
2277 purposes of a center under the provisions of Title 63G, Chapter 7, Governmental Immunity Act
2278 of Utah.

2279 (3) A volunteer is considered a government employee in accordance with Section
2280 [67-20-3](#) and entitled to immunity under the provisions of Title 63G, Chapter 7, Governmental
2281 Immunity Act of Utah.

2282 (4) A volunteer, other than one considered a government employee in accordance with
2283 Section [67-20-3](#), may not incur any personal financial liability for any tort claim or other action
2284 seeking damage for an injury arising from any act or omission of the volunteer while providing
2285 services for the nonprofit organization if:

2286 (a) the individual was acting in good faith and reasonably believed he was acting
2287 within the scope of the individual's official functions and duties with the center; and

2288 (b) the damage or injury was not caused by an intentional or knowing act by the
2289 volunteer which constitutes illegal or wanton misconduct.

2290 (5) The center is not liable for the acts or omissions of its volunteers in any

2291 circumstance where the acts of its volunteers are not as described in Subsection (4) unless:

2292 (a) the center had, or reasonably should have had, reasonable notice of the volunteer's
2293 unfitness to provide services to the center under circumstances that make the center's use of the
2294 volunteer reckless or wanton in light of that notice; or

2295 (b) a business employer would be liable under the laws of this state if the act or
2296 omission were the act or omission of one of its employees.

2297 Section 59. Section **76-3-201** is amended to read:

2298 **76-3-201. Definitions -- Sentences or combination of sentences allowed -- Civil**
2299 **penalties.**

2300 (1) As used in this section:

2301 (a) "Conviction" includes a:

2302 (i) judgment of guilt;

2303 (ii) plea of guilty; or

2304 (iii) plea of no contest.

2305 (b) "Criminal activities" means any misdemeanor or felony offense for which the
2306 defendant is convicted or any other criminal conduct for which the defendant admits
2307 responsibility to the sentencing court with or without an admission of committing the criminal
2308 conduct.

2309 (c) "Pecuniary damages" means all special damages, but not general damages, which a
2310 person could recover against the defendant in a civil action arising out of the facts or events
2311 constituting the defendant's criminal activities and includes the money equivalent of property
2312 taken, destroyed, broken, or otherwise harmed, and losses including earnings and medical
2313 expenses.

2314 (d) "Restitution" means full, partial, or nominal payment for pecuniary damages to a
2315 victim, and payment for expenses to a governmental entity for extradition or transportation and
2316 as further defined in Title 77, Chapter 38a, Crime Victims Restitution Act.

2317 (e) (i) "Victim" means any person or entity, including the Utah Office for Victims of
2318 Crime, who the court determines has suffered pecuniary damages as a result of the defendant's
2319 criminal activities.

2320 (ii) "Victim" does not include a codefendant or accomplice.

2321 (2) Within the limits prescribed by this chapter, a court may sentence a person

2322 convicted of an offense to any one of the following sentences or combination of them:

- 2323 (a) to pay a fine;
- 2324 (b) to removal or disqualification from public or private office;
- 2325 (c) to probation unless otherwise specifically provided by law;
- 2326 (d) to imprisonment;
- 2327 (e) on or after April 27, 1992, to life in prison without parole; or
- 2328 (f) to death.

2329 (3) (a) This chapter does not deprive a court of authority conferred by law to:

- 2330 (i) forfeit property;
- 2331 (ii) dissolve a corporation;
- 2332 (iii) suspend or cancel a license;
- 2333 (iv) permit removal of a person from office;
- 2334 (v) cite for contempt; or
- 2335 (vi) impose any other civil penalty.

2336 (b) A civil penalty may be included in a sentence.

2337 (4) (a) When a person is convicted of criminal activity that has resulted in pecuniary
2338 damages, in addition to any other sentence it may impose, the court shall order that the
2339 defendant make restitution to the victims, or for conduct for which the defendant has agreed to
2340 make restitution as part of a plea agreement.

2341 (b) In determining whether restitution is appropriate, the court shall follow the criteria
2342 and procedures as provided in Title 77, Chapter 38a, Crime Victims Restitution Act.

2343 (c) In addition to any other sentence the court may impose, the court, pursuant to the
2344 provisions of Sections [~~63M-7-503~~ [67-5d-304](#) and [77-38a-401](#)], shall enter:

- 2345 (i) a civil judgment for complete restitution for the full amount of expenses paid on
2346 behalf of the victim by the Utah Office for Victims of Crime; and
- 2347 (ii) an order of restitution for restitution payable to the Utah Office for Victims of
2348 Crime in the same amount unless otherwise ordered by the court pursuant to Subsection (4)(d).

2349 (d) In determining whether to order that the restitution required under Subsection (4)(c)
2350 be reduced or that the defendant be exempted from the restitution, the court shall consider the
2351 criteria under Subsections [77-38a-302\(5\)\(c\)\(i\)](#) through (vi) and provide findings of its decision
2352 on the record.

2353 (5) (a) In addition to any other sentence the court may impose, and unless otherwise
2354 ordered by the court, the defendant shall pay restitution of governmental transportation
2355 expenses if the defendant was:

2356 (i) transported pursuant to court order from one county to another within the state at
2357 governmental expense to resolve pending criminal charges;

2358 (ii) charged with a felony or a class A, B, or C misdemeanor; and

2359 (iii) convicted of a crime.

2360 (b) The court may not order the defendant to pay restitution of governmental
2361 transportation expenses if any of the following apply:

2362 (i) the defendant is charged with an infraction or on a subsequent failure to appear a
2363 warrant is issued for an infraction; or

2364 (ii) the defendant was not transported pursuant to a court order.

2365 (c) (i) Restitution of governmental transportation expenses under Subsection (5)(a)(i)
2366 shall be calculated according to the following schedule:

2367 (A) \$100 for up to 100 miles a defendant is transported;

2368 (B) \$200 for 100 up to 200 miles a defendant is transported; and

2369 (C) \$350 for 200 miles or more a defendant is transported.

2370 (ii) The schedule of restitution under Subsection (5)(c)(i) applies to each defendant
2371 transported regardless of the number of defendants actually transported in a single trip.

2372 (d) If a defendant has been extradited to this state under Title 77, Chapter 30,
2373 Extradition, to resolve pending criminal charges and is convicted of criminal activity in the
2374 county to which he has been returned, the court may, in addition to any other sentence it may
2375 impose, order that the defendant make restitution for costs expended by any governmental
2376 entity for the extradition.

2377 (6) (a) In addition to any other sentence the court may impose, and unless otherwise
2378 ordered by the court pursuant to Subsection (6)(c), the defendant shall pay restitution to the
2379 county for the cost of incarceration and costs of medical care provided to the defendant while
2380 in the county correctional facility before and after sentencing if:

2381 (i) the defendant is convicted of criminal activity that results in incarceration in the
2382 county correctional facility; and

2383 (ii) (A) the defendant is not a state prisoner housed in a county correctional facility

2384 through a contract with the Department of Corrections; or

2385 (B) the reimbursement does not duplicate the reimbursement provided under Section
2386 64-13e-104 if the defendant is a state probationary inmate, as defined in Section 64-13e-102, or
2387 a state parole inmate, as defined in Section 64-13e-102.

2388 (b) (i) The costs of incarceration under Subsection (6)(a) are the amount determined by
2389 the county correctional facility, but may not exceed the daily inmate incarceration costs and
2390 medical and transportation costs for the county correctional facility.

2391 (ii) The costs of incarceration under Subsection (6)(a) do not include expenses incurred
2392 by the county correctional facility in providing reasonable accommodation for an inmate
2393 qualifying as an individual with a disability as defined and covered by the federal Americans
2394 with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213, including medical and mental
2395 health treatment for the inmate's disability.

2396 (c) In determining whether to order that the restitution required under this Subsection
2397 (6) be reduced or that the defendant be exempted from the restitution, the court shall consider
2398 the criteria under Subsections 77-38a-302(5)(c)(i) through (vi) and shall enter the reason for its
2399 order on the record.

2400 (d) If on appeal the defendant is found not guilty of the criminal activity under
2401 Subsection (6)(a)(i) and that finding is final as defined in Section 76-1-304, the county shall
2402 reimburse the defendant for restitution the defendant paid for costs of incarceration under
2403 Subsection (6)(a).

2404 (7) In addition to any other sentence the court may impose, the court shall determine
2405 whether costs are appropriate pursuant to Section 77-32a-107.

2406 Section 60. Section 77-37-4 is amended to read:

2407 **77-37-4. Additional rights -- Children.**

2408 In addition to all rights afforded to victims and witnesses under this chapter, child
2409 victims and witnesses shall be afforded these rights:

2410 (1) Children have the right to protection from physical and emotional abuse during
2411 their involvement with the criminal justice process.

2412 (2) Children are not responsible for inappropriate behavior adults commit against them
2413 and have the right not to be questioned, in any manner, nor to have allegations made, implying
2414 this responsibility. Those who interview children have the responsibility to consider the

2415 interests of the child in this regard.

2416 (3) Child victims and witnesses have the right to have interviews relating to a criminal
2417 prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they
2418 are conducted by persons sensitive to the needs of children.

2419 (4) Child victims have the right to be informed of available community resources that
2420 might assist them and how to gain access to those resources. Law enforcement and prosecutors
2421 have the duty to ensure that child victims are informed of community resources, including
2422 counseling prior to the court proceeding, and have those services available throughout the
2423 criminal justice process.

2424 (5) (a) Child victims have the right, once an investigation has been initiated by law
2425 enforcement or the Division of Child and Family Services, to keep confidential their interviews
2426 that are conducted at a Children's Justice Center, including video and audio recordings, and
2427 transcripts of those recordings. Except as provided in Subsection (6), recordings and
2428 transcripts of interviews may not be distributed, released, or displayed to anyone without a
2429 court order.

2430 (b) A court order described in Subsection (5)(a):

2431 (i) shall describe with particularity to whom the recording or transcript of the interview
2432 may be released and prohibit further distribution or viewing by anyone not named in the order;
2433 and

2434 (ii) may impose restrictions on access to the materials considered reasonable to protect
2435 the privacy of the child victim.

2436 (c) A parent or guardian of the child victim may petition a juvenile or district court for
2437 an order allowing the parent or guardian to view a recording or transcript upon a finding of
2438 good cause. The order shall designate the agency that is required to display the recording or
2439 transcript to the parent or guardian and shall prohibit viewing by anyone not named in the
2440 order.

2441 (d) Following the conclusion of any legal proceedings in which the recordings or
2442 transcripts are used, the court shall order the recordings and transcripts in the court's file sealed
2443 and preserved.

2444 (6) (a) The following offices and their designated employees may distribute and receive
2445 a recording or transcript to and from one another without a court order:

- 2446 (i) the Division of Child and Family Services;
- 2447 (ii) administrative law judges employed by the Department of Human Services;
- 2448 (iii) Department of Human Services investigators investigating the Division of Child
2449 and Family Services or investigators authorized to investigate under Section [62A-4a-202.6](#);
- 2450 (iv) an office of the city attorney, county attorney, district attorney, or attorney general;
- 2451 (v) a law enforcement agency;
- 2452 (vi) a Children's Justice Center established under Section [~~67-5b-102~~] [67-5d-501](#); or
- 2453 (vii) the attorney for the child who is the subject of the interview.
- 2454 (b) In a criminal case or in a juvenile court in which the state is a party:
- 2455 (i) the parties may display and enter into evidence a recording or transcript in the
2456 course of a prosecution;
- 2457 (ii) the state's attorney may distribute a recording or transcript to the attorney for the
2458 defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for
2459 discovery;
- 2460 (iii) the attorney for the defendant or respondent may do one or both of the following:
- 2461 (A) release the recording or transcript to an expert retained by the attorney for the
2462 defendant or respondent if the expert agrees in writing that the expert will not distribute,
2463 release, or display the recording or transcript to anyone without prior authorization from the
2464 court; or
- 2465 (B) permit the defendant or respondent to view the recording or transcript, but may not
2466 distribute or release the recording or transcript to the defendant or respondent; and
- 2467 (iv) the court shall advise a pro se defendant or respondent that a recording or
2468 transcript received as part of discovery is confidential and may not be distributed, released, or
2469 displayed without prior authorization from the court.
- 2470 (c) A court's failure to advise a pro se defendant or respondent that a recording or
2471 transcript received as part of discovery is confidential and may not be used as a defense to
2472 prosecution for a violation of the disclosure rule.
- 2473 (d) In an administrative case, pursuant to a written request, the Division of Child and
2474 Family Services may display, but may not distribute or release, a recording or transcript to the
2475 respondent or to the respondent's designated representative.
- 2476 (e) (i) Within two business days of a request from a parent or guardian of a child

2477 victim, an investigative agency shall allow the parent or guardian to view a recording after the
2478 conclusion of an interview, unless:

2479 (A) the suspect is a parent or guardian of the child victim;

2480 (B) the suspect resides in the home with the child victim; or

2481 (C) the investigative agency determines that allowing the parent or guardian to view
2482 the recording would likely compromise or impede the investigation.

2483 (ii) If the investigative agency determines that allowing the parent or guardian to view
2484 the recording would likely compromise or impede the investigation, the parent or guardian may
2485 petition a juvenile or district court for an expedited hearing on whether there is good cause for
2486 the court to enter an order allowing the parent or guardian to view the recording in accordance
2487 with Subsection (5)(c).

2488 (iii) A Children's Justice Center shall coordinate the viewing of the recording described
2489 in this Subsection (6)(e).

2490 (f) A multidisciplinary team assembled by a Children's Justice Center or an
2491 interdisciplinary team assembled by the Division of Child and Family Services may view a
2492 recording or transcript, but may not receive a recording or transcript.

2493 (g) A Children's Justice Center:

2494 (i) may distribute or display a recording or transcript to an authorized trainer or
2495 evaluator for purposes of training or evaluation; and

2496 (ii) may display, but may not distribute, a recording or transcript to an authorized
2497 trainee.

2498 (h) An authorized trainer or instructor may display a recording or transcript according
2499 to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center
2500 or according to the authorized trainer's or instructor's scope of employment.

2501 (i) (i) In an investigation under Section [53E-6-506](#), in which a child victim who is the
2502 subject of the recording or transcript has alleged criminal conduct against an educator, a law
2503 enforcement agency may distribute or release the recording or transcript to an investigator
2504 operating under State Board of Education authorization, upon the investigator's written request.

2505 (ii) If the respondent in a case investigated under Section [53E-6-506](#) requests a hearing
2506 authorized under that section, the investigator operating under State Board of Education
2507 authorization may display, release, or distribute the recording or transcript to the prosecutor

2508 operating under State Board of Education authorization or to an expert retained by an
2509 investigator.

2510 (iii) Upon request for a hearing under Section [53E-6-506](#), a prosecutor operating under
2511 State Board of Education authorization may display the recording or transcript to a pro se
2512 respondent, to an attorney retained by the respondent, or to an expert retained by the
2513 respondent.

2514 (iv) The parties to a hearing authorized under Section [53E-6-506](#) may display and enter
2515 into evidence a recording or transcript in the course of a prosecution.

2516 (7) Except as otherwise provided in this section, it is a class B misdemeanor for any
2517 individual to distribute, release, or display any recording or transcript of an interview of a child
2518 victim conducted at a Children's Justice Center.

2519 Section 61. Section [77-37-5](#) is amended to read:

2520 **[77-37-5. Remedies -- District Victims' Rights Committee.](#)**

2521 (1) In each judicial district, the Utah Council on Victims of Crime, established in
2522 Section [~~[63M-7-601](#)~~] [67-5d-201](#), shall appoint a person who shall chair a judicial district
2523 victims' rights committee consisting of:

- 2524 (a) a county attorney or district attorney;
- 2525 (b) a sheriff;
- 2526 (c) a corrections field services administrator;
- 2527 (d) an appointed victim advocate;
- 2528 (e) a municipal attorney;
- 2529 (f) a municipal chief of police; and
- 2530 (g) other representatives as appropriate.

2531 (2) The committee shall meet at least semiannually to review progress and problems
2532 related to this chapter, Title 77, Chapter 38, Rights of Crime Victims Act, Title 77, Chapter
2533 38a, Crime Victims Restitution Act, and Utah Constitution Article I, Section 28. Victims and
2534 other interested parties may submit matters of concern to the victims' rights committee. The
2535 committee may hold a hearing open to the public on any appropriate matter of concern and may
2536 publish its findings. These matters shall also be considered at the meetings of the victims'
2537 rights committee. The committee shall forward minutes of all meetings to the Utah Council on
2538 Victims of Crime for review and other appropriate action.

2539 (3) If a victims' rights committee is unable to resolve a complaint, it may refer the
2540 complaint to the Utah Council on Victims of Crime.

2541 (4) The Utah Office for Victims of Crime shall provide materials to local law
2542 enforcement to inform every victim of a sexual offense of the right to request testing of the
2543 convicted sexual offender and of the victim as provided in Section [76-5-502](#).

2544 (5) (a) If a person acting under color of state law willfully or wantonly fails to perform
2545 duties so that the rights in this chapter are not provided, an action for injunctive relief may be
2546 brought against the individual and the government entity that employs the individual.

2547 (b) For all other violations, if the committee finds a violation of a victim's right, it shall
2548 refer the matter to the appropriate court for further proceedings consistent with Subsection
2549 [77-38-11\(2\)](#).

2550 (c) The failure to provide the rights in this chapter or Title 77, Chapter 38, Rights of
2551 Crime Victims Act, does not constitute cause for a judgment against the state or any
2552 government entity, or any individual employed by the state or any government entity, for
2553 monetary damages, attorney fees, or the costs of exercising any rights under this chapter.

2554 (6) The person accused of and subject to prosecution for the crime or the act which
2555 would be a crime if committed by a competent adult, has no standing to make a claim
2556 concerning any violation of the provisions of this chapter.

2557 Section 62. Section [77-38-302](#) is amended to read:

2558 **[77-38-302. Definitions.](#)**

2559 As used in this part:

2560 (1) "Convicted person" means a person who has been convicted of a crime.

2561 (2) "Conviction" means an adjudication by a federal or state court resulting from a trial
2562 or plea, including a plea of no contest, nolo contendere, a finding of not guilty due to insanity,
2563 or not guilty but having a mental illness regardless of whether the sentence was imposed or
2564 suspended.

2565 (3) "Fund" means the Crime Victim Reparations Fund created in Section [[63M-7-526](#)]
2566 [67-5d-323](#).

2567 (4) "Memorabilia" means any tangible property of a convicted person or a
2568 representative or assignee of a convicted person, the value of which is enhanced by the
2569 notoriety gained from the criminal activity for which the person was convicted.

2570 (5) "Notoriety of crimes contract" means a contract or other agreement with a
2571 convicted person, or a representative or assignee of a convicted person, with respect to:

2572 (a) the reenactment of a crime in any manner including a movie, book, magazine
2573 article, Internet website, recording, phonograph record, radio or television presentation, or live
2574 entertainment of any kind;

2575 (b) the expression of the convicted person's thoughts, feelings, opinions, or emotions
2576 regarding a crime involving or causing personal injury, death, or property loss as a direct result
2577 of the crime; or

2578 (c) the payment or exchange of any money or other consideration or the proceeds or
2579 profits that directly or indirectly result from the notoriety of the crime.

2580 (6) "Office" means the Utah Office for Victims of Crime created in Section 67-5d-301.

2581 (7) "Profit" means any income or benefit:

2582 (a) over and above the fair market value of tangible property that is received upon the
2583 sale or transfer of memorabilia; or

2584 (b) any money, negotiable instruments, securities, or other consideration received or
2585 contracted for gain which is traceable to a notoriety of crimes contract.

2586 Section 63. Section **78B-6-2105** is amended to read:

2587 **78B-6-2105. Civil action for enforcement -- Penalties.**

2588 (1) A person who predominately distributes or otherwise predominately provides
2589 pornographic material to consumers with the intent to earn revenue or profit directly or
2590 indirectly from the distribution may not distribute any obscene material or performance as
2591 defined in Section 76-10-1203 without first giving a clear and reasonable warning of the
2592 harmful impact of exposing minors to the material or performance. The warning of the harm
2593 shall be prominently displayed in the following form:

2594 "STATE OF UTAH WARNING

2595 Exposing minors to obscene material may damage or negatively impact minors."

2596 (2) (a) For print publications created after May 12, 2020, the warning in Subsection (1)
2597 shall be placed in clear, readable type on the cover of each publication which includes material
2598 as defined in Section 76-10-1201.

2599 (b) For digital publications:

2600 (i) the warning in Subsection (1) shall be displayed in searchable text format and for at

2601 least five seconds prior to the display of any video or each image which includes material as
2602 defined in Section 76-10-1201; or

2603 (ii) if the website complies with Subsection 78B-6-2103(3), it is not required to display
2604 the warning in Subsection (1) prior to each video or image contained on the website.

2605 (3) A person who violates this section shall be liable for a civil penalty not to exceed
2606 \$2,500 per violation, plus filing fees and attorney fees, in addition to any other penalty
2607 established by law, and enjoined from further violations. The civil penalty may be assessed and
2608 recovered in a civil action brought in any court of competent jurisdiction. Each of the following
2609 violations shall create a separate liability per violation:

2610 (a) the sale or display of potentially harmful content without the warning required in
2611 Subsection (1), in accordance with Subsection (2); or

2612 (b) the absence of the following searchable text within the website's metadata -
2613 utahobscenitywarning.

2614 (4) The determination by a court as to whether a person is distributing material the
2615 state considers to be obscene material or performance as defined in Section 78B-6-1203 shall
2616 be proven by clear and convincing evidence. All other elements of proof shall be proven by a
2617 preponderance of the evidence.

2618 (5) The court, in ordering payment, shall specify each amount for the civil penalty,
2619 filing fees, and attorney fees.

2620 (6) In assessing the amount of a civil penalty for a violation of this chapter, the court
2621 shall consider all of the following:

2622 (a) the nature and extent of the violation;

2623 (b) the number and severity of the violations;

2624 (c) the economic effect of the penalty on the violator;

2625 (d) whether the violator took good faith measures to comply with this chapter and
2626 when those measures were taken;

2627 (e) the willfulness of the violator's misconduct;

2628 (f) the deterrent effect that the imposition of the penalty would have on both the
2629 violator and the regulated community as a whole; and

2630 (g) any other factor that the court determines justice requires.

2631 (7) Actions pursuant to this section may be brought by the attorney general's office in

2632 the name of the people of the state or by a private person in accordance with Subsection (8).

2633 (8) A private person may bring an action in the public interest pursuant to this section
2634 if:

2635 (a) the person has served notice of an alleged violation of Section 78B-6-2103 on the
2636 alleged violator and the attorney general's office;

2637 (b) the attorney general's office has not provided a letter to the noticing party within 60
2638 days of receipt of the notice of an alleged violation indicating that:

2639 (i) an action is currently being pursued or will be pursued by the attorney general's
2640 office regarding the violation; or

2641 (ii) the attorney general believes that there is no merit to the action; and

2642 (c) the alleged violator has not responded to the notice of alleged violation or returned
2643 the proof of compliance form provided in Subsection (14).

2644 (9) If a lawsuit is commenced, the plaintiff may include additional violations in the
2645 claim that are discovered through the discovery process.

2646 (10) Notice of the alleged violation shall be executed by the attorney for the noticing
2647 party, or by the noticing party, if the noticing party is not represented by an attorney, and
2648 include a notice of alleged violation. The notice of alleged violation shall:

2649 (a) state that the person executing the notice believes that there is a violation; and

2650 (b) provide factual information sufficient to establish the basis for the alleged violation.

2651 (11) A person who serves a notice of alleged violation identified in Subsection (10)
2652 shall complete and provide to the alleged violator at the time the notice of alleged violation is
2653 served, a notice of special compliance procedure and proof of compliance form pursuant to
2654 Subsection (14). The person may file an action against the alleged violator, or recover from the
2655 alleged violator if:

2656 (a) the notice of alleged violation alleges that the alleged violator failed to provide a
2657 clear and reasonable warning as required under Subsection (1); and

2658 (b) within 14 days after receipt of the notice of alleged violation, the alleged violator
2659 has not:

2660 (i) corrected the alleged violation and all similar violations known to the alleged
2661 violator;

2662 (ii) agreed to pay a penalty for the alleged violation in the amount of \$500 per

2663 violation; and

2664 (iii) notified, in writing, the noticing party that the violation has been corrected.

2665 (12) The written notice required in Subsection (11)(b)(iii) shall be the notice of special
2666 compliance procedure and proof of compliance form specified in Subsection (14). The alleged
2667 violator shall deliver the civil penalty to the noticing party within 30 days of receipt of the
2668 notice of alleged violation.

2669 (13) The attorney general shall review the notice of alleged violation and may confer
2670 with the noticing party. If the attorney general believes there is no merit to the action, the
2671 attorney general shall, within 45 days of receipt of the notice of alleged violation, provide a
2672 letter to the noticing party and the alleged violator stating that the attorney general believes
2673 there is no merit to the action.

2674 (14) The notice required to be provided to an alleged violator pursuant to Subsection
2675 (11) shall be presented as follows:

2676 "Date:

2677 Name of Noticing Party or attorney for Noticing Party:

2678 Address:

2679 Phone number:

2680 SPECIAL COMPLIANCE PROCEDURE

2681 PROOF OF COMPLIANCE

2682 You are receiving this form because the Noticing Party listed above has alleged that you are in
2683 violation of Utah Code Section [78B-6-2103](#).

2684 The Noticing Party may bring legal proceedings against you for the alleged violation checked
2685 below if:

2686 (1) you have not actually taken the corrective steps that you have certified in this form;

2687 (2) the Noticing Party has not received this form at the address shown above, accurately
2688 completed by you, postmarked within 14 days of your receiving this notice; and

2689 (3) the Noticing Party does not receive the required \$500 penalty payment for each violation
2690 alleged from you at the address shown above postmarked within 30 days of your receiving this
2691 notice.

2692 PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE
2693 NOTICING PARTY

2694 This notice of alleged violation is for failure to warn against an exposure to minors of materials
2695 considered harmful to minors. (provide complete description of violation, including when and
2696 where observed)

2697 Date:

2698 Name of Noticing Party or attorney for Noticing Party:

2699 Address:

2700 Phone number:

2701 PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED

2702 REPRESENTATIVE

2703 Certification of Compliance

2704 Accurate completion of this form will demonstrate that you are now in compliance with Utah
2705 Code Section [78B-6-2103](#), for the alleged violation listed above. You must complete and
2706 submit the form below to the Noticing Party at the address shown above, postmarked within 14
2707 days of you receiving this notice.

2708 I hereby agree to pay, within 30 days of receipt of this notice, a penalty of \$500 for each
2709 violation alleged to the Noticing Party only and certify that I have complied with by (check
2710 only one of the following):

2711 Posting a warning or warnings, and attaching a copy of that warning and a photograph
2712 accurately showing its placement on the print or digital publication.

2713 Eliminating the alleged exposure, and attaching a statement accurately describing how the
2714 alleged exposure has been eliminated.

2715 CERTIFICATION

2716 My statements on this form, and on any attachments to it, are true, complete, and correct to the
2717 best of my knowledge and belief and are made in good faith. I have carefully read the
2718 instructions to complete this form. I understand that if I make a false statement on this form, I
2719 may be subject to additional penalties under Utah Code Section [76-10-1206](#).

2720 Signature of alleged violator or authorized representative:

2721 Date:

2722 Name and title of signatory:_"

2723 (15) An alleged violator may satisfy the conditions set forth in Subsection (14) only
2724 one time for a specific violation.

2725 (16) Notwithstanding Subsection (14), the attorney general may file an action pursuant
2726 to Subsection (7) against an alleged violator. In any action, the amount of any civil penalty for
2727 a violation shall be reduced to reflect any payment made by the alleged violator to a private
2728 person in accordance with Subsection (14) for the same alleged violation.

2729 (17) Payments shall be made in accordance with this section.

2730 (a) A civil penalty ordered by the court shall be paid to the plaintiff as directed by the
2731 court.

2732 (b) A penalty paid in accordance with the special compliance procedure in Subsection
2733 (14) shall be made directly to the noticing party.

2734 (18) The Utah Office for Victims of Crime shall receive 50% of any penalty paid in
2735 accordance with this section. Funds received shall be deposited in the Crime Victim
2736 Reparations Fund created in Section [~~63M-7-526~~] 67-5d-323. The penalty amount upon which
2737 the 50% is calculated may not include attorney fees or costs awarded by the court.

2738 (a) If the penalty is paid to a noticing party in accordance with Subsection (14), the
2739 noticing party shall remit the required amount along with a copy of the Special Compliance
2740 Procedure document.

2741 (b) If a civil penalty is ordered by the court, the plaintiff shall remit the required
2742 amount along with a copy of the court order.

2743 (19) The attorney general's office shall provide to the Utah Office for Victims of Crime
2744 a copy of all notices of alleged violations to which the attorney general's office did not respond
2745 with a letter of no merit in accordance with Subsection (13).

2746 (20) The court shall provide to the Utah Office for Victims of Crime a copy of the
2747 court's order for payment.

2748 (21) The Utah Office for Victims of Crime shall:

2749 (a) maintain a record of documents and payments submitted pursuant to Subsections
2750 (18), (19), and (20);

2751 (b) create and provide to the Legislature in odd-numbered years beginning November
2752 2021, a report containing the following for the previous two years:

2753 (i) the number of notices of alleged violations received from the attorney general's
2754 office;

2755 (ii) the number of court orders received; and

2756 (iii) the total amount received and deposited into the Crime Victim Reparations Fund.

2757 (22) This section does not apply to:

2758 (a) a person portrayed in obscene or pornographic material that is created, duplicated,
2759 or distributed without the person's knowledge or consent; or

2760 (b) a person who is coerced or blackmailed into distributing obscene or pornographic
2761 material.

2762 (23) Beginning May 1, 2025, and at each five-year interval, the dollar amount of the
2763 civil penalty provided in Subsection (3) shall be adjusted by the Judicial Council based on the
2764 change in the annual Consumer Price Index for the most recent five-year period ending on
2765 December 31 of the previous year, and rounded to the nearest five dollars. The attorney general
2766 shall publish the dollar amount of the civil penalty together with the date of the next scheduled
2767 adjustment.

2768 Section 64. **Repealer.**

2769 This bill repeals:

2770 Section **63M-7-501**, Title.

2771 Section **63M-7-502**, Definitions.

2772 Section **63M-7-505**, Board and office within Commission on Criminal and Juvenile
2773 Justice.

2774 Section **67-5b-101**, Definitions.