

# HB0289S01 compared with HB0289

~~{deleted text}~~ shows text that was in HB0289 but was deleted in HB0289S01.

inserted text shows text that was not in HB0289 but was inserted into HB0289S01.

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Representative Karianne Lisonbee proposes the following substitute bill:

## VICTIM SERVICES AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

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

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### LONG TITLE

#### General Description:

This bill ~~{creates}~~modifies the Utah ~~{Division of Victim Services in the Office}~~Council for Victims of ~~{the Attorney General}~~Crime (council).

#### 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;~~

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- moves the oversight of the Utah Council on Victims of Crime from the governor's office to the Division of Victim Services; modifies the membership of the council;
  - ▶ allows the council to advocate for a victim of crime in appellate courts;
  - ▶ clarifies the duties of the staff assigned to the council; and
  - ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

- ~~{17-16-21}~~ 63M-7-601, as last amended by Laws of Utah ~~{2018}~~ 2019, Chapter ~~{347}~~
- ~~24-4-117~~, as last amended by Laws of Utah 2015, Chapter 134
- ~~35A-8-901~~ 246
- 63M-7-602, as renumbered and amended by Laws of Utah ~~{2012}~~ 2008, Chapter ~~{212}~~ 382
- ~~{36-12-7}~~ 63M-7-603, as last amended by Laws of Utah ~~{2020}~~, Chapter 343
- ~~53-1-106~~, as last amended by Laws of Utah 2019, Chapter 441
- ~~53-6-213~~, as last amended by Laws of Utah 2011, Chapter 131
- ~~62A-4a-102~~, as last amended by Laws of Utah 2019, Chapter 335
- ~~62A-4a-103~~, as last amended by Laws of Utah 2017, Chapter 323
- ~~62A-4a-105~~, as last amended by Laws of Utah 2020, Chapters 108 and 250
- ~~62A-4a-106~~, as last amended by Laws of Utah 2018, Chapter 53
- ~~62A-4a-304~~, as last amended by Laws of Utah 2008, Chapters 299 and 382
- ~~62A-4a-412~~, as last amended by Laws of Utah 2020, Chapters 193 and 258
- ~~63A-12-100.5~~, as last amended by Laws of Utah 2015, Chapter 322
- ~~63G-2-103~~, as last amended by Laws of Utah 2020, Chapter 365
- ~~63G-7-102~~, as last amended by Laws of Utah 2019, Chapter 280
- ~~63I-1-263~~, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360

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- ~~63I-1-267~~, as last amended by Laws of Utah 2020, Chapter 154
- ~~64-13-14.7~~, as last ~~amended by Laws of Utah 2010, Chapter 82~~
- 63M-7-605, as renumbered and amended by Laws of Utah 2008, Chapter 382
- ~~67-5-1~~, as last amended by Laws of Utah 2020, Chapter 343
- ~~76-3-201~~, as last amended by Laws of Utah 2017, Chapter 304
- ~~77-37-4~~, as last amended by Laws of Utah 2018, Chapter 415
- ~~77-37-5~~, as last amended by Laws of Utah 2011, Chapter 131
- ~~77-38-302~~, as last amended by Laws of Utah 2020, Chapter 230
- ~~78B-6-2105~~, as enacted by Laws of Utah 2020, Chapter 442

### ENACTS:

- ~~67-5d-101~~, Utah Code Annotated 1953
- ~~67-5d-102~~, Utah Code Annotated 1953
- ~~67-5d-103~~, Utah Code Annotated 1953
- ~~67-5d-104~~, Utah Code Annotated 1953
- ~~67-5d-301~~, Utah Code Annotated 1953

### RENUMBERS AND AMENDS:

- ~~67-5d-201~~, (Renumbered from ~~63M-7-601~~, as last amended by Laws of Utah 2019, Chapter 246)
- ~~67-5d-202~~, (Renumbered from ~~63M-7-602~~, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- ~~67-5d-203~~, (Renumbered from ~~63M-7-603~~, as last amended by Laws of Utah 2010, Chapter 82)
- ~~67-5d-204~~, (Renumbered from ~~63M-7-604~~, as repealed and reenacted by Laws of Utah 2010, Chapter 286)
- ~~67-5d-205~~, (Renumbered from ~~63M-7-605~~, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- ~~67-5d-302~~, (Renumbered from ~~63M-7-507~~, as last amended by Laws of Utah 2020, Chapter 149)
- ~~67-5d-303~~, (Renumbered from ~~63M-7-508~~, as last amended by Laws of Utah 2020, Chapter 149)
- ~~67-5d-304~~, (Renumbered from ~~63M-7-503~~, as last amended by Laws of Utah 2020,

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~~Chapter 149)~~

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

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

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

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

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

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

~~67-5d-311, (Renumbered from 63M-7-514, as last amended by Laws of Utah 2020,  
Chapter 149)~~

~~67-5d-312, (Renumbered from 63M-7-515, as last amended by Laws of Utah 2020,  
Chapter 149)~~

~~67-5d-313, (Renumbered from 63M-7-516, as last amended by Laws of Utah 2020,  
Chapter 149)~~

~~67-5d-314, (Renumbered from 63M-7-517, as last amended by Laws of Utah 2020,  
Chapter 149)~~

~~67-5d-315, (Renumbered from 63M-7-518, as last amended by Laws of Utah 2020,  
Chapter 149)~~

~~67-5d-316, (Renumbered from 63M-7-519, as last amended by Laws of Utah 2020,  
Chapter 149)~~

~~67-5d-317, (Renumbered from 63M-7-521, as last amended by Laws of Utah 2020,  
Chapter 149)~~

~~67-5d-318, (Renumbered from 63M-7-521.5, as last amended by Laws of Utah 2020,  
Chapter 149)~~

~~67-5d-319, (Renumbered from 63M-7-522, as last amended by Laws of Utah 2020,  
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- ~~67-5d-320~~, (Renumbered from ~~63M-7-523~~, as last amended by Laws of Utah 2020, Chapter 149)
- ~~67-5d-321~~, (Renumbered from ~~63M-7-524~~, as last amended by Laws of Utah 2020, Chapter 149)
- ~~67-5d-322~~, (Renumbered from ~~63M-7-525~~, as last amended by Laws of Utah 2020, Chapter 149)
- ~~67-5d-323~~, (Renumbered from ~~63M-7-526~~, as enacted by Laws of Utah 2020, Chapter 230)
- ~~67-5d-401~~, (Renumbered from ~~63M-7-504~~, as last amended by Laws of Utah 2020, Chapters 352 and 373)
- ~~67-5d-402~~, (Renumbered from ~~63M-7-506~~, as last amended by Laws of Utah 2020, Chapter 149)
- ~~67-5d-501~~, (Renumbered from ~~67-5b-102~~, as last amended by Laws of Utah 2019, Chapter 246)
- ~~67-5d-502~~, (Renumbered from ~~67-5b-103~~, as last amended by Laws of Utah 2016, Chapter 290)
- ~~67-5d-503~~, (Renumbered from ~~67-5b-104~~, as last amended by Laws of Utah 2016, Chapter 290)
- ~~67-5d-504~~, (Renumbered from ~~67-5b-105~~, as last amended by Laws of Utah 2019, Chapters 246 and 349)
- ~~67-5d-505~~, (Renumbered from ~~67-5b-107~~, as last amended by Laws of Utah 2008, Chapter 382)

### REPEALS:

- ~~63M-7-501~~, as last amended by Laws of Utah 2011, Chapter 131
- ~~63M-7-502~~, as last amended by Laws of Utah 2020, Chapters 149 and 230
- ~~63M-7-505~~, as last amended by Laws of Utah 2020, Chapter 149
- ~~67-5b-101~~, as last amended by Laws of Utah 2016, Chapter 290

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

Section 1. Section ~~{17-16-2}~~63M-7-601 is amended to read:

~~{17-16-21. Fees of county officers.~~

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

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

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

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

~~—— (b) As long as the Children's Legal Defense Account is authorized by Section 51-9-408, the county clerk shall:~~

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

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

~~—— (c) (i) As long as the [Division of Child and Family Services, created in Section 62A-4a-103, has the responsibility under Section 62A-4a-105 to provide services] Division of Victim Services has the responsibility under Section 67-5d-103 to provide domestic violence services, including temporary shelter, for victims of domestic violence, the county clerk shall:~~

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

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

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

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

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

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- ~~—— (i) may assess \$20 in addition to the other fees for a marriage license established under this section;~~
- ~~—— (ii) except as provided in Subsection (2)(d)(iii), shall transmit \$20 from the marriage license fee to the state treasurer for deposit annually as follows:~~
- ~~—— (A) the first \$400,000 shall accrue to the Utah Marriage Commission, created in Section 62A-1-120, as dedicated credits for the operation of the Utah Marriage Commission; and~~
- ~~—— (B) proceeds in excess of \$400,000 shall be deposited into the General Fund; and~~
- ~~—— (iii) may not transmit \$20 from the marriage license fee to the state treasurer under this Subsection (2)(d) if both individuals seeking the marriage license certify that they have completed premarital counseling or education in accordance with Section 30-1-34.~~
- ~~—— (3) This section does not apply to a fee currently being assessed by the state but collected by a county officer:~~
- ~~—— Section 2. Section 24-4-117 is amended to read:~~
- ~~—— 24-4-117. State Asset Forfeiture Grant Program.~~
- ~~—— (1) There is created the State Asset Forfeiture Grant Program.~~
- ~~—— (2) The program shall fund crime prevention, crime victim reparations, and law enforcement activities that have the purpose of:~~
- ~~—— (a) deterring crime by depriving criminals of the profits and proceeds of their illegal activities;~~
- ~~—— (b) weakening criminal enterprises by removing the instrumentalities of crime;~~
- ~~—— (c) reducing crimes involving substance abuse by supporting the creation, administration, or operation of drug court programs throughout the state;~~
- ~~—— (d) encouraging cooperation between local, state, and multijurisdictional law enforcement agencies;~~
- ~~—— (e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited proceeds of crime;~~
- ~~—— (f) increasing the equitability and accountability of the use of forfeited property used to assist law enforcement in reducing and preventing crime; and~~
- ~~—— (g) providing aid to victims of criminally injurious conduct, as defined in Section~~

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~~[63M-7-502] 67-5d-102, who may be eligible for assistance under [Title 63M, Chapter 7, Part 5,] Title 67, Chapter 5d, Part 3, Utah Office for Victims of Crime:~~

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

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

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

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

~~—— (a) demonstrated needs of the agency;~~

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

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

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

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

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

~~—— (b) The award money is nonlapsing.~~

~~—— (8) A recipient state agency, local law enforcement agency, multijurisdictional law enforcement agency, or political subdivision shall use awards only for law enforcement purposes as described in this section or for victim reparations as described in Subsection (2)(g), and only as these purposes are specified by the agency or political subdivision in its~~



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~~application for the award:~~

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

- ~~—— (a) controlled substance interdiction and enforcement activities;~~
- ~~—— (b) drug court programs;~~
- ~~—— (c) activities calculated to enhance future law enforcement investigations;~~
- ~~—— (d) law enforcement training that includes:~~
  - ~~—— (i) implementation of the Fourth Amendment to the United States Constitution and Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's right of due process;~~
  - ~~—— (ii) protection of the rights of innocent property holders; and~~
  - ~~—— (iii) the Tenth Amendment to the United States Constitution regarding states' sovereignty and the states' reserved rights;~~
- ~~—— (e) law enforcement or detention facilities;~~
- ~~—— (f) law enforcement operations or equipment that are not routine costs or operational expenses;~~
- ~~—— (g) drug, gang, or crime prevention education programs that are sponsored in whole or in part by the law enforcement agency or its legislative body;~~
- ~~—— (h) matching funds for other state or federal law enforcement grants; and~~
- ~~—— (i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture actions.~~

~~—— (10) Law enforcement purposes for which award money may not be granted or used include:~~

- ~~—— (a) payment of salaries, retirement benefits, or bonuses to any person;~~
- ~~—— (b) payment of expenses not related to law enforcement;~~
- ~~—— (c) uses not specified in the agency's award application;~~
- ~~—— (d) uses not approved by the agency's legislative body;~~
- ~~—— (e) payments, transfers, or pass-through funding to entities other than law enforcement agencies; or~~
- ~~—— (f) uses, payments, or expenses that are not within the scope of the agency's functions.~~

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

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

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

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

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

~~(a) procedures for applying for loans and grants;~~

~~(b) criteria for awarding loans and grants; and~~

~~(c) requirements for the repayment of loans.~~

~~(3) The division may appoint an advisory panel to:~~

~~(a) assist the division in developing rules under Subsection (2); and~~

~~(b) recommend how available funds should be disbursed.~~

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

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

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

~~36-12-7. Legislative Management Committee -- Duties -- Litigation.~~

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

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

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

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

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

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

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

~~—— (3) The Legislative Management Committee shall:~~

~~—— (a) employ, after recommendation of the appropriate subcommittee of the Legislative Management Committee, without regard to political affiliation, and subject to approval of a majority vote of both houses, persons qualified for the positions of director of the Office of Legislative Research and General Counsel, legislative fiscal analyst, legislative general counsel, and legislative auditor general. Appointments to these positions shall be for terms of six years subject to renewal under the same procedure as the original appointment. A person may be removed from any of these offices before the expiration of the person's term only by a majority vote of both houses of the Legislature or by a two-thirds vote of the management committee for such causes as inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, misfeasance, malfeasance, or nonfeasance in office. If a vacancy occurs in any of these offices after adjournment of the Legislature, the committee shall appoint an individual to fill the vacancy until such time as the person is approved or rejected by majority vote of the next session of the Legislature;~~

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

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

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

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

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

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

~~—— (i) the constitutionality of a state statute;~~

~~—— (ii) the validity of legislation; or~~

~~—— (iii) any action of the Legislature.~~

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

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

~~—— (e) In any action in which the Legislature intervenes or participates, legislative counsel and the attorney general shall function independently from each other in the representation of their respective clients.~~

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

~~—— Section 5. Section 53-1-106 is amended to read:~~

~~—— 53-1-106. Department duties -- Powers.~~

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- ~~—— (1) In addition to the responsibilities contained in this title, the department shall:~~
- ~~—— (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:~~
- ~~—— (i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and~~
- ~~—— (ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;~~
- ~~—— (b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;~~
- ~~—— (c) aid in enforcement efforts to combat drug trafficking;~~
- ~~—— (d) meet with the Department of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;~~
- ~~—— (e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by [Section 63M-7-505] Sections 67-5d-301 and 67-5d-402;~~
- ~~—— (f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;~~
- ~~—— (g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702;~~
- ~~—— (h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact;~~
- ~~—— (i) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:~~
- ~~—— (i) under this title;~~
- ~~—— (ii) by the department; or~~
- ~~—— (iii) by an agency or division within the department; and~~

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~~—— (j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:~~

~~—— (i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;~~

~~—— (ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and~~

~~—— (iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211.~~

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

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

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

~~—— Section 6. Section 53-6-213 is amended to read:~~

~~—— 53-6-213. Appropriations from reparation fund:~~

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

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

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

~~—— 62A-4a-102. Rulemaking responsibilities of division:~~

~~—— (1) The Division of Child and Family Services, created in Section 62A-4a-103, is responsible for establishing division rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act, regarding abuse, neglect, and dependency proceedings[, and domestic violence services]. The division is responsible to see that the legislative purposes for the division are carried out.~~

~~—— (2) The division shall:~~

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- ~~—— (a) approve fee schedules for programs within the division;~~
- ~~—— (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish rules to ensure that private citizens, consumers, foster parents, private contract providers, allied state and local agencies, and others are provided with an opportunity to comment and provide input regarding any new rule or proposed revision of an existing rule; and~~
- ~~—— (c) provide a mechanism for:~~
  - ~~—— (i) systematic and regular review of existing rules, including an annual review of all division rules to ensure that rules comply with the Utah Code; and~~
  - ~~—— (ii) consideration of rule changes proposed by the persons and agencies described in Subsection (2)(b):~~
- ~~—— (3) (a) The division shall establish rules for the determination of eligibility for services offered by the division in accordance with this chapter.~~
- ~~—— (b) The division may, by rule, establish eligibility standards for consumers.~~
- ~~—— (4) The division shall adopt and maintain rules regarding placement for adoption or foster care that are consistent with, and no more restrictive than, applicable statutory provisions.~~
- ~~—— Section 8. Section 62A-4a-103 is amended to read:~~
- ~~—— 62A-4a-103. Division -- Creation -- Purpose.~~
  - ~~—— (1) (a) There is created the Division of Child and Family Services within the department, under the administration and general supervision of the executive director.~~
  - ~~—— (b) The division is the child, youth, and family services authority of the state and has all functions, powers, duties, rights, and responsibilities created in accordance with this chapter, except those assumed by the department.~~
  - ~~—— (2) (a) The primary purpose of the division is to provide child welfare services.~~
  - ~~—— (b) The division shall, when possible and appropriate, provide in-home services for the preservation of families in an effort to protect the child from the trauma of separation from the child's family, protect the integrity of the family, and the constitutional rights of parents. In keeping with its ultimate goal and purpose of protecting children, however, when a child's welfare is endangered or reasonable efforts to maintain or reunify a child with the child's family have failed, the division shall act in~~

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~~a timely fashion in accordance with the requirements of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, to provide the child with a stable, permanent environment.~~

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

~~— Section 9. Section 62A-4a-105 is amended to read:~~

~~— 62A-4a-105. Division responsibilities.~~

~~— (1) The division shall:~~

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

~~— (i) child welfare services; and~~

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

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

~~— (b) provide the following services:~~

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

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

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

~~— (B) family preservation services;~~

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

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

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

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

~~— [(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title~~



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~~78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;]~~

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

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

~~—— [(x)] (vii) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;~~

~~—— (c) establish standards for all:~~

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

~~—— (ii) facilities that provide substitute care for dependent, abused, and neglected children placed in the custody of the division; [and]~~

~~—— [(iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);]~~

~~—— (d) have authority to:~~

~~—— (i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and~~

~~—— (ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, and neglected children placed in the custody of the division;~~

~~—— (e) cooperate with the federal government in the administration of child welfare [and domestic violence programs] and other human service activities assigned by the department;~~

~~—— (f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of division records to the same extent that the division is required to protect division records, cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child;~~

~~—— (g) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, and dependent children, in accordance with the requirements of this chapter, unless administration is expressly~~

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~~vested in another division or department of the state;~~

~~—— (h) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;~~

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

~~—— (j) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;~~

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

~~—— [(l)] (k) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:~~

~~—— (i) have a permanency goal of adoption; or~~

~~—— (ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;~~

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

~~—— [(n)] (m) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:~~

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

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

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

~~—— [(o)] (n) perform other duties and functions required by law.~~

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

~~—— (i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop~~

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~~and administer a broad range of services and support;~~

~~—— (ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and~~

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

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

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

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

~~—— (iii) the court finds that the individual is impecunious.~~

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

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

~~—— Section 10. Section 62A-4a-106 is amended to read:~~

~~—— 62A-4a-106. Services provided by division:~~

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

~~—— (a) adoptions;~~

~~—— (b) day care for children;~~

~~—— (c) out-of-home placements for minors;~~

~~—— (d) health-related services;~~

~~—— (e) homemaking services;~~

~~—— (f) home management services;~~

~~—— (g) protective services for minors; and~~

~~—— (h) transportation services[; and];~~

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

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

~~—— (3) When the division provides a service through a private contract, not including a foster parent placement, the division shall post the name of the service provider on the division's website.~~

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

~~—— (a) remove or facilitate the removal of a child from the child's home;~~

~~—— (b) file a petition for removal of a child from the child's home;~~

~~—— (c) file a petition for a child protective order;~~

~~—— (d) make a supported finding;~~

~~—— (e) seek a substantiated finding;~~

~~—— (f) file a petition alleging that a child is abused, neglected, dependent, or abandoned; or~~

~~—— (g) file a petition for termination of parental rights.~~

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

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

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

~~—— (b) If a parent or guardian of a child who is adopted from the custody of the division requests vendor services from the division, the division shall refer the parent or~~

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~~guardian to a provider of vendor services, at the parent's or guardian's expense, if:~~

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

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

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

~~—— (iii) the parent or guardian desires the referral.~~

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

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

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

~~—— Section 11. Section 62A-4a-304 is amended to read:~~

~~—— 62A-4a-304. Contracts for services:~~

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

~~—— (b) Each contract entered into by the director under Section 62A-4a-303 shall contain a provision for the evaluation of services provided under the contract.~~

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

~~—— Section 12. Section 62A-4a-412 is amended to read:~~

~~—— 62A-4a-412. Reports, information, and referrals confidential:~~

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

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

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- ~~—— (b) a physician who reasonably believes that a child may be the subject of abuse or neglect;~~
- ~~—— (c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;~~
- ~~—— (d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;~~
- ~~—— (e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;~~
- ~~—— (f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:~~
  - ~~—— (i) limited to objective or undisputed facts that were verified at the time of the investigation; and~~
  - ~~—— (ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;~~
- ~~—— (g) an office of the public prosecutor or its deputies in performing an official duty;~~
- ~~—— (h) a person authorized by a Children's Justice Center, for the purposes described in Section [67-5b-102] 67-5d-501;~~
- ~~—— (i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;~~
- ~~—— (j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;~~

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- ~~—— (k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);~~
- ~~—— (l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report;~~
- ~~—— (m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;~~
- ~~—— (n) an Indian tribe to:~~
  - ~~—— (i) certify or license a foster home;~~
  - ~~—— (ii) render services to a subject of a report; or~~
  - ~~—— (iii) investigate an allegation of abuse, neglect, or dependency; or~~
- ~~—— (o) the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman, or the services described in Subsection 62A-15-103(2)(o).~~
- ~~—— (2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.~~
- ~~—— (b) A person who requests information knowing that the request is a violation of Subsection (2)(a) is subject to the criminal penalty in Subsection (4).~~
- ~~—— (3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in its subsequent investigation.~~
- ~~—— (b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:~~
  - ~~—— (i) identify the referent;~~

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~~—— (ii) impede a criminal investigation; or~~

~~—— (iii) endanger a person's safety.~~

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

~~—— (5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith pursuant to this part.~~

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

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

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

~~—— Section 13. Section 63A-12-100.5 is amended to read:~~

~~—— 63A-12-100.5. Definitions:~~

~~—— (1) Except as provided under Subsection (2), the definitions in Section 63G-2-103 apply to this chapter:~~

~~—— (2) As used in this chapter:~~

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

~~—— (b) "record" means:~~

~~—— (i) the same as that term is defined in Section 63G-2-103; or~~

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

~~—— Section 14. Section 63G-2-103 is amended to read:~~

~~—— 63G-2-103. Definitions:~~

~~—— As used in this chapter:~~



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~~—— (1) "Audit" means:~~

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

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

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

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

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

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

~~—— (4) (a) "Computer program" means:~~

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

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

~~—— (b) "Computer program" does not mean:~~

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

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

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

~~—— (5) (a) "Contractor" means:~~

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

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~~—— (ii) any private, nonprofit organization that receives funds from a governmental entity:~~

~~—— (b) "Contractor" does not mean a private provider:~~

~~—— (6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.~~

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

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

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

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

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

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

~~—— (ii) the resultant gaseous pressures are capable of:~~

~~—— (A) producing destructive effects on contiguous objects; or~~

~~—— (B) causing death or serious bodily injury:~~

~~—— (10) "Government audit agency" means any governmental entity that conducts an audit:~~

~~—— (11) (a) "Governmental entity" means:~~

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

~~—— (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal~~

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~~Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;~~

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

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

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

~~—— (b) "Governmental entity" also means:~~

~~—— (i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;~~

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

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

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

~~—— (v) the Utah Independent Redistricting Commission; and~~

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

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

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

~~—— (13) "Individual" means a human being.~~

~~—— (14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties~~

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~~describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:~~

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

~~—— (ii) names of victims;~~

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

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

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

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

~~—— (b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).~~

~~—— (15) "Legislative body" means the Legislature.~~

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

~~—— (17) "Person" means:~~

~~—— (a) an individual;~~

~~—— (b) a nonprofit or profit corporation;~~

~~—— (c) a partnership;~~

~~—— (d) a sole proprietorship;~~

~~—— (e) other type of business organization; or~~

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

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

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

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

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

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

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

~~————(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means:~~

~~————(b) "Record" does not mean:~~

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

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

~~————(B) that is unrelated to the conduct of the public's business;~~

~~————(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;~~

~~————(iii) material that is legally owned by an individual in the individual's private capacity;~~

~~————(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;~~

~~————(v) proprietary software;~~

~~————(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;~~

~~————(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;~~

~~————(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;~~

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~~—— (ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;~~

~~—— (x) a computer program that is developed or purchased by or for any governmental entity for its own use;~~

~~—— (xi) a note or internal memorandum prepared as part of the deliberative process by:~~

~~—— (A) a member of the judiciary;~~

~~—— (B) an administrative law judge;~~

~~—— (C) a member of the Board of Pardons and Parole; or~~

~~—— (D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;~~

~~—— (xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;~~

~~—— (xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);~~

~~—— (xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;~~

~~—— (xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section [67-5b-102] 67-5d-501;~~

~~—— (xvi) child pornography, as defined by Section 76-5b-103; or~~

~~—— (xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:~~

~~—— (A) a Senate or House Ethics Committee;~~

~~—— (B) the Independent Legislative Ethics Commission;~~

~~—— (C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or~~

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~~—— (D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.~~

~~—— (23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.~~

~~—— (24) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.~~

~~—— (25) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.~~

~~—— (26) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:~~

~~—— (a) conducted:~~

~~—— (i) by an institution within the state system of higher education defined in Section 53B-1-102; and~~

~~—— (ii) through an office responsible for sponsored projects or programs; and~~

~~—— (b) funded or otherwise supported by an external:~~

~~—— (i) person that is not created or controlled by the institution within the state system of higher education; or~~

~~—— (ii) federal, state, or local governmental entity.~~

~~—— (27) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.~~

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

~~—— (29) "State Records Committee" means the State Records Committee created in Section 63G-2-501.~~

~~—— (30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.~~

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

~~63G-7-102. Definitions:~~

~~As used in this chapter:~~

~~(1) "Arises out of or in connection with, or results from," when used to describe the relationship between conduct or a condition and an injury, means that:~~

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

~~(b) the causal relationship is more than any causal connection but less than proximate cause; and~~

~~(c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.~~

~~(2) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.~~

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

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

~~(ii) members of a governing body;~~

~~(iii) members of a government entity board;~~

~~(iv) members of a government entity commission;~~

~~(v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section [67-5b-102] 67-5d-501;~~

~~(vi) student teachers holding a license issued by the State Board of Education;~~

~~(vii) educational aides;~~

~~(viii) students engaged in internships under Section 53B-16-402 or 53G-7-902;~~

~~(ix) volunteers as defined by Subsection 67-20-2(3); and~~

~~(x) tutors.~~

~~(b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or not the individual holding that position receives compensation.~~

~~(c) "Employee" does not include an independent contractor.~~



## HB0289S01 compared with HB0289

~~———— (4) "Governmental entity" means:~~

~~———— (a) the state and its political subdivisions; and~~

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

~~———— (5) (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.~~

~~———— (b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.~~

~~———— (c) "Governmental function" includes a governmental entity's failure to act.~~

~~———— (6) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person's agent.~~

~~———— (7) "Personal injury" means an injury of any kind other than property damage.~~

~~———— (8) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.~~

~~———— (9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.~~

~~———— (10) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.~~

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

~~———— Section 16. Section 63I-1-263 is amended to read:~~

~~———— 63I-1-263. Repeal dates, Titles 63A to 63N.~~

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

~~———— (a) Subsection 63A-1-201(1) is repealed;~~

~~———— (b) Subsection 63A-1-202(2)(c), the language "using criteria established by the~~

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~~board" is repealed;~~

~~—— (c) Section 63A-1-203 is repealed;~~

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

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

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

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

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

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

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

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

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

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

~~—— (10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.~~

~~—— (11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.~~

~~—— (12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.~~

~~—— (13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.~~

~~—— (14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed~~

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~~July 1, 2024.~~

~~—— (15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.~~

~~—— (16) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.~~

~~—— (17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.~~

~~—— (b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~

~~—— (18) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.~~

~~—— (19) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.~~

~~—— (20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.~~

~~—— (21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.~~

~~—— (22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.~~

~~—— (23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:~~

~~—— (a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;~~

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

~~—— (c) Subsection 63M-7-305(1) is repealed and replaced with:~~

~~—— "(1) "Commission" means the Commission on Criminal and Juvenile Justice.";~~  
~~and~~

~~—— (d) Subsection 63M-7-305(2) is repealed and replaced with:~~

~~—— "(2) The commission shall:~~

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~~—— (a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and~~

~~—— (b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv)."~~

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

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

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

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

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

~~—— [(29)] [(27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.~~

~~—— [(30)] [(28) Section 63N-2-512 is repealed July 1, 2021.~~

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

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

~~—— (c) Notwithstanding Subsection [(31)(b)] [(29)(b)], an entity may carry forward a tax credit in accordance with Section 59-9-107 if:~~

~~—— (i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and~~

~~—— (ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.~~

~~—— [(32)] [(30) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.~~

~~—— [(33)] [(31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.~~

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~~—— [(34)] (32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.~~

~~—— [(35)] (33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.~~

~~—— [(36)] (34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.~~

~~—— Section 17. Section 63I-1-267 is amended to read:~~

~~—— 63I-1-267. Repeal dates, Title 67.~~

~~—— (1) Section 67-1-8.1, which creates the Executive Residence Commission, is repealed July 1, 2022.~~

~~—— (2) Section 67-1-15 is repealed December 31, 2027.~~

~~—— (3) Section 67-3-11 is repealed July 1, 2024.~~

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

~~—— [(5) Section 67-5b-105, which creates local advisory boards for the Children's Justice Center Program, is repealed July 1, 2021.]~~

~~—— (5) The Crime Victim Reparations and Assistance Board, created in Section 67-5d-401, is repealed July 1, 2027.~~

~~—— (6) Title 67, Chapter 5d, Part 2, Utah Council on Victims of Crime, is repealed July 1, 2022.~~

~~—— (7) Section 67-5d-504, which creates local advisory boards for the Children's Justice Center Program, is repealed July 1, 2021.~~

~~—— Section 18. Section 64-13-14.7 is amended to read:~~

~~—— 64-13-14.7. Victim notification of offender's release.~~

~~—— (1) As used in this section:~~

~~—— (a) "Offender" means a person who committed an act of criminally injurious conduct against the victim and has been sentenced to incarceration in the custody of the department.~~

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

~~—— (ii) "Victim" includes the legal guardian of a victim, or the representative of the~~

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~~family of a victim who is deceased:~~

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

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

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

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

~~—— (a) to the offender under any circumstances; or~~

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

~~—— (5) The department may make rules as necessary to implement this section:~~

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

~~—— Section 19. Section 67-5-1 is amended to read:~~

~~—— 67-5-1. General duties:~~

~~—— The attorney general shall:~~

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

~~—— (2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme~~

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

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

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

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

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

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

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

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

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

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

~~—— (i) a law enforcement agency submits investigation results to the county or district attorney of the jurisdiction where the incident occurred and the county or district attorney:~~

~~—— (A) declines to file criminal charges; or~~

~~—— (B) fails to screen the case for criminal charges within six months of the law~~

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~~enforcement agency's submission of the investigation results; and~~

~~—— (ii) after consultation with the county or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county or district attorney of the jurisdiction where the incident occurred;~~

~~—— (7) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:~~

~~—— (a) in accordance with Section 67-5-1.1, to the Legislature or either house;~~

~~—— (b) to any state officer, board, or commission; and~~

~~—— (c) to any county attorney or district attorney;~~

~~—— (8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;~~

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

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

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

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



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

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

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

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

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

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

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

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

~~—— (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;~~

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

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that might:

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

~~—— (ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and~~

~~—— (b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;~~

~~—— [(21)] (20) (a) submit a written report to the committees described in Subsection [(21)] (20)(b) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection [(21)] (20); including any:~~

~~—— (i) settlements reached;~~

~~—— (ii) consent decrees entered;~~

~~—— (iii) judgments issued;~~

~~—— (iv) preliminary injunctions issued;~~

~~—— (v) temporary restraining orders issued; or~~

~~—— (vi) formal or informal policies of the Office of the Attorney General to not enforce a law; and~~

~~—— (b) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection [(21)] (20)(a) to:~~

~~—— (i) the Legislative Management Committee;~~

~~—— (ii) the Judiciary Interim Committee; and~~

~~—— (iii) the Law Enforcement and Criminal Justice Interim Committee;~~

~~—— [(22)] (21) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:~~

~~—— (a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and~~

~~—— (b) any other information or analysis requested by the rate committee;~~

~~—— [(23)] (22) before the end of each calendar year, create an annual performance~~

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~~report for the Office of the Attorney General and post the report on the attorney general's website;~~

~~—— [(24)] (23) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;~~

~~—— [(25)] (24) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:~~

~~—— (a) the constitutionality of a state statute;~~

~~—— (b) the validity of legislation; or~~

~~—— (c) any action of the Legislature;[and]~~

~~—— [(26)] (25) (a) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:~~

~~—— (i) establish outreach to the tribes and affected counties and communities; and~~

~~—— (ii) foster better relations and a cooperative framework; and~~

~~—— (b) annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:~~

~~—— (i) the status of the work of the special advisor described in Subsection [(26)(a)] (25)(a); and~~

~~—— (ii) whether the need remains for the ongoing appropriation to fund the special advisor 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~~

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~~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.~~

~~—— (5) "Claimant" means any of the following claiming reparations under this part:~~

~~—— (a) a victim;~~

~~—— (b) a dependent of a deceased victim; or~~

~~—— (c) an individual or representative who files a reparations claim on behalf of a victim.~~

~~—— (6) "Child" means an unemancipated individual who is under 18 years old.~~

~~—— (7) "Child abuse case" means a juvenile, civil, or criminal case involving a child abuse victim.~~

~~—— (8) "Child abuse victim" means a child 17 years of age or younger who is:~~

~~—— (a) a victim of:~~

~~—— (i) sexual abuse; or~~

~~—— (ii) physical abuse; or~~

~~—— (b) a victim or a critical witness in any criminal case, such as a child endangerment case described in Section 76-5-112.5.~~

~~—— (9) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part which the victim or claimant has received, or which is readily available to the victim from:~~

~~—— (a) the offender;~~

~~—— (b) the insurance of the offender or the victim;~~

~~—— (c) the United States government or any of The United States government's agencies, a state or any of The United States government's political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;~~

~~—— (d) social security, Medicare, and Medicaid;~~

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- ~~—— (e) state-required temporary nonoccupational income replacement insurance or disability income insurance;~~
- ~~—— (f) workers' compensation;~~
- ~~—— (g) wage continuation programs of any employer;~~
- ~~—— (h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;~~
- ~~—— (i) a contract providing prepaid hospital and other health care services or benefits for disability; or~~
- ~~—— (j) veteran's benefits, including veteran's hospitalization benefits;~~
- ~~—— (10) "Council" means the Council on Victims of Crime created in Section 67-5d-201;~~
- ~~—— (11) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:~~
  - ~~—— (i) is or would be subject to prosecution in this state under Section 76-1-201;~~
  - ~~—— (ii) occurs or is attempted;~~
  - ~~—— (iii) causes, or poses a substantial threat of causing, bodily injury or death;~~
  - ~~—— (iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and~~
  - ~~—— (v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs;~~
- ~~—— (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C. Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism" does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.~~
- ~~—— (c) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.~~
- ~~—— (12) "Dependent" means an individual to whom the victim is wholly or partially legally responsible for care or support and includes a child of the victim born after the~~

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victim's death.

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

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

~~—— (15) "Director" means the director of the office.~~

~~—— (16) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:~~

~~—— (a) convicted of a crime;~~

~~—— (b) found delinquent; or~~

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

~~—— (17) "Division" means the Utah Division of Victim Services created in this chapter.~~

~~—— (18) "Division director" means the director of the division.~~

~~—— (19) "Domestic violence services" means:~~

~~—— (a) temporary shelter, treatment, and related services to:~~

~~—— (i) an individual who is a victim of abuse, as defined in Section 78B-7-102; and~~

~~—— (ii) the dependent children of an individual who is a victim of abuse, as defined in Section 78B-7-102; and~~

~~—— (b) treatment services for an individual who is alleged to have committed, has been convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.~~

~~—— (20) (a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.~~

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- ~~———— (b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.~~
- ~~———— (c) "Economic loss" does not include noneconomic detriment.~~
- ~~———— (21) "Elderly victim" means an individual 60 years old or older who is a victim.~~
- ~~———— (22) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.~~
- ~~———— (23) "Fund" means the Crime Victim Reparations Fund created in Section 67-5d-523.~~
- ~~———— (24) "Law enforcement officer" means a law enforcement officer as defined in Section 53-13-103.~~
- ~~———— (25) "Medical examination" means a physical examination necessary to document criminally injurious conduct but does not include mental health evaluations for the prosecution and investigation of a crime.~~
- ~~———— (26) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~
- ~~———— (27) "Misconduct" as provided in Subsection 67-5d-309(1)(b) means conduct by the victim which was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~
- ~~———— (28) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.~~
- ~~———— (29) "Offender" means an individual who has violated the Utah Criminal Code through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.~~
- ~~———— (30) "Offense" means a violation of the Utah Criminal Code.~~
- ~~———— (31) "Office" means the the Utah Office for Victims of Crime created in Section 67-5d-302.~~
- ~~———— (32) "Officers and employees" means any person performing services for two or more public agencies as agreed in a memorandum of understanding in accordance with~~

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### Section 67-5d-503:

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

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

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

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

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

~~—— (38) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part, and includes the director when the director is acting as a reparations officer.~~

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

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

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

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

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



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~~(44) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.~~

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

~~(46) "Substantial bodily injury" means the same as that term is defined in Section 76-1-601.~~

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

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

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

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

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

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

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

~~67-5d-103. Division creation and responsibilities:~~

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

~~(2) The division shall:~~

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

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

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

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

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

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

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

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

~~67-5d-104. Division director:~~

~~(1) The division director shall:~~

~~(a) be appointed by the attorney general in consultation with the council;~~

~~(b) serve at the pleasure of the attorney general;~~

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

~~(i) social work;~~

~~(ii) psychology;~~

~~(iii) criminal justice; or~~

~~(iv) law;~~

~~(d) demonstrate an understanding of the needs of crime victims and of services to victims; and~~

~~(e) have at least five years of experience working in criminal justice or victim services;~~

~~(2) The division director shall:~~

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- ~~\_\_\_\_\_ (a) administer and supervise the division;~~
- ~~\_\_\_\_\_ (b) coordinate policies and programs, and activities conducted through the board, council, and office;~~
- ~~\_\_\_\_\_ (c) approve the proposed budget of the board, council, and office; and~~
- ~~\_\_\_\_\_ (d) administer the Children's Justice Center Program created in Title 67, Chapter 5d, Part 3, Children's Justice Center Program.~~

~~\_\_\_\_\_ Section 24. Section 67-5d-201, which is renumbered from Section 63M-7-601 is renumbered and amended to read:~~

### ~~Part 2. Utah Council on Victims of Crime~~

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

(1) There is created within the ~~{}~~ governor's office ~~{}~~ division the Utah Council on Victims of Crime.

(2) The ~~[Utah Council on Victims of Crime]~~ council shall be composed of 25 voting members as follows:

(a) a representative of the Commission on Criminal and Juvenile Justice appointed by the executive director;

(b) a representative of the Department of Corrections appointed by the executive director;

(c) a representative of the Board of Pardons and Parole appointed by the chair;

(d) a representative of the Department of Public Safety appointed by the commissioner;

(e) a representative of the Division of Juvenile Justice Services appointed by the director;

(f) a representative of the Utah Office for Victims of Crime appointed by the director;

(g) a representative ~~{}~~ of the Office of the Attorney General appointed by the attorney general ~~{}~~ of the governor's office appointed by the governor;

(h) a representative of the United States Attorney for the district of Utah appointed by the United States Attorney;

(i) a representative of Utah's Native American community appointed by the director of the Division of Indian Affairs after input from federally recognized tribes in Utah;

~~{}~~ a professional or volunteer working in the area of violence against women and

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families appointed by the governor;]

(j) a representative of the Department of Health's Violence and Injury Prevention Program appointed by the program's manager;

(k) the chair of each judicial district's victims' rights committee;

~~[(t) the following members appointed to serve four-year terms:]~~

~~[(t)]~~ (l) a representative of the Statewide Association of Public Attorneys appointed by that association;

~~[(ti)]~~ (m) a representative of the Utah Chiefs of Police Association appointed by the president of that association;

~~[(tiii)]~~ (n) a representative of the Utah Sheriffs' Association appointed by the president of that association;

~~[(tv)]~~ (o) a representative of a Children's Justice Center appointed by the attorney general; and

~~[(v) a citizen representative appointed by the governor; and]~~

~~[(m)]~~ (p) the following members appointed by the members in Subsections (2)(a) through (2)(k)~~[(p)]~~(o) to serve four-year terms:

(i) an individual who works professionally with victims of crime; ~~[and]~~

~~[(ii) a victim of crime.]~~

~~[(3) The council shall annually elect one member to serve as chair.]~~

(ii) a citizen representative; and

(iii) a citizen representative who has been a victim of crime.

(3) The council shall annually elect:

(a) one member to serve as chair;

(b) one member to serve as vice-chair; and

(c) one member to serve as treasurer.

~~[(4) The council shall work with the division director to coordinate services and initiatives.]~~

~~Section 25. Section 67-5d-202, which is renumbered from Section 63M-7-602 is renumbered and;~~ Section 2. Section 63M-7-602 is amended to read:

~~{}63M-7-602{}~~. ~~{ 67-5d-202. Reappointment}~~ Reappointment -- Vacancies.

(1) ~~[Members]~~ A member appointed to serve a four-year ~~[terms shall be]~~ term is

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eligible for reappointment [~~one-time~~].

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

~~Section 26. Section 67-5d-203, which is renumbered from Section 63M-7-603 is renumbered and~~ 3. Section 63M-7-603 is amended to read:

~~{63M-7-603}~~. ~~{ 67-5d-203. Duties}~~ Duties of the council.

(1) The council shall:

(a) make recommendations to the Legislature, the ~~{}~~governor ~~{ attorney general}~~, and the Judicial Council on the following:

- (i) enforcing existing rights of victims of crime;
- (ii) enhancing rights of victims of crime;
- (iii) the role of victims of crime in the criminal justice system;
- (iv) victim restitution;
- (v) educating and training criminal justice professionals on the rights of victims of crime; and

(vi) enhancing services to victims of crimes;

(b) provide training on the rights of victims of crime; and

(c) establish a subcommittee to consider complaints not resolved by the Victims'

Rights Committee established in Section 77-37-5.

(2) The council:

(a) shall advocate the adoption, repeal, or modification of laws or proposed legislation in the interest of victims of crime;

~~{ (b) may establish additional subcommittees to assist in accomplishing its duties; [and]~~

~~(c) shall select and appoint persons [pursuant to the provisions of] in accordance with Section 77-37-5 to act as chairpersons of the judicial district victims' rights committees and provide assistance to the committees in their operations[.]; and~~

~~{ (d) b}~~ subject to court rules, may advocate in appellate courts on behalf of  victims of crime.

~~Section 27. Section 67-5d-204, which is renumbered from Section 63M-7-604 is renumbered and amended to read:~~

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

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~~— A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

~~— (1) Section 63A-3-106;~~

~~— (2) Section 63A-3-107; and~~

~~— (3) rules made by the Division of Finance [pursuant to] } a victim of crime;~~

~~[(b)] (c) may establish additional subcommittees to assist in accomplishing its duties; and~~

~~[(c)] (d) shall select and appoint [persons pursuant to the provisions of] individuals in accordance with {Sections 63A-3-106 and 63A-3-107.~~

~~— Section 28. Section 67-5d-205, which is renumbered from Section 63M-7-605 is renumbered and; Section 77-37-5 to act as chairpersons of the judicial district victims' rights committees and provide assistance to the committees in their operations.~~

Section 4. Section 63M-7-605 is amended to read:

~~{63M-7-605}~~. ~~{ 67-5d-205. Staffing}~~ Staffing.

(1) The ~~{}~~Commission on Criminal and Juvenile Justice ~~{ division}~~ shall provide staff to the council and any subcommittees established by the council.

(2) Staff assigned to the council shall:

(a) provide administrative assistance to the council and ~~{the council's committees and} any~~ subcommittees;

(b) receive complaints regarding victim's rights violations from victims and other interested persons and forward the complaints to the appropriate ~~{committee}~~ subcommittee within the council; and

(c) perform any duties assigned by the council or a subcommittee to fulfill the council's duties described in Section 67-5d-203.

~~{ — Section 29. Section 67-5d-301 is enacted to read:~~

### **Part 3. Utah Office for Victims of Crime**

~~— 67-5d-301. Office creation and placement within the division.~~

~~— (1) There is created the Utah Office for Victims of Crime in the division.~~

~~— (2) The director may request assistance from the division, the board, the Office of the Attorney General, the Department of Public Safety, or any other state agency in conducting research or monitoring programs under this part.~~

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~~Section 30. Section 67-5d-302, which is renumbered from Section 63M-7-507 is renumbered and amended to read:~~

~~[63M-7-507]. 67-5d-302. Director -- Appointment and functions.~~

~~(1) The [executive director of the Commission on Criminal and Juvenile Justice] division director, after consulting with the attorney general and the board, shall appoint a director to carry out the provisions of this part.~~

~~(2) The director shall:~~

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

~~(i) social work;~~

~~(ii) psychology;~~

~~(iii) criminal justice;~~

~~(iv) law; or~~

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

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

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

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

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

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

~~(c) possess the same investigation and decision-making authority as the reparations officers;~~

~~(d) hear appeals from the decisions of the reparations officers, unless the director acted as a reparations officer on the initial reparations claim;~~

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

~~(f) serve as the public relations representative of the office;~~

~~(g) provide for payment of all administrative salaries, fees, and expenses incurred by the staff of the board, to be paid out of appropriations from the fund;~~

~~(h) cooperate with the state treasurer and the state Division of Finance in causing the funds in the fund to be invested and the fund's investments sold or exchanged and the proceeds and income collected;~~

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~~—— (i) apply for, receive, allocate, disburse, and account for, subject to approval and in conformance with policies adopted by the board, all grant funds made available by the United States, the state, foundations, corporations, and other businesses, agencies, or individuals;~~  
~~—— (j) obtain and utilize the services of other governmental agencies upon request; and~~  
~~—— (k) act in any other capacity or perform any other acts necessary for the office or board to successfully fulfill the office's or board's statutory duties and objectives.~~

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

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

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

~~—— (1) hear and determine all matters relating to a reparations claim and reinvestigate or reopen a reparations claim without regard to statutes of limitation or periods of prescription;~~

~~—— (2) obtain from prosecuting attorneys, law enforcement officers, and other criminal justice agencies, investigations and data to enable the reparations officer to determine whether and to what extent a claimant qualifies for reparations;~~

~~—— (3) as determined necessary by the reparations officers, hold hearings, administer oaths or affirmations, examine any individual under oath or affirmation, issue subpoenas requiring the attendance and giving of testimony of witnesses, require the production of any books, papers, documents, or other evidence which may contribute to the reparations officer's ability to determine particular reparation awards;~~

~~—— (4) determine who is a victim or dependent;~~

~~—— (5) award reparations or other benefits determined to be due under this part and the rules of the board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~

~~—— (6) take notice of judicially recognized facts and general, technical, and scientific facts within the reparations officers' specialized knowledge;~~

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

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

~~—— (a) the reparations officers' activities; and~~

~~—— (b) the manner in which the rights, needs, and interests of crime victims are being~~



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~~addressed by the state's criminal justice system;~~

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

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

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

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

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

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

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

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

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

~~—— (iii) The office's failure to provide notice under Subsection (3)(a) does not invalidate the imposition of the judgment or order of restitution if the defendant is given the opportunity to object and be heard as provided in this part.~~

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

~~—— (ii) Upon the filing of the objection, the court shall allow the defendant a full hearing~~

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~~on the issue in accordance with Subsection 77-38a-302(4).~~

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

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

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

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

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

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

~~—— (a) the claimant is:~~

~~—— (i) a victim of criminally injurious conduct;~~

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

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

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

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

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

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

~~—— (e) the claimant or victim cooperates with the appropriate law enforcement agencies~~

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~~and prosecuting attorneys in efforts to apprehend or convict the perpetrator of the alleged offense; and~~

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

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

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

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

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

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

~~—— (b) the offender;~~

~~—— (c) an accomplice of the offender;~~

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

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

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

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

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

~~—— (i) an individual who:~~

~~—— (i) submits a fraudulent claim; or~~

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

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- ~~—— (2) (a) An individual may not knowingly:~~
- ~~—— (i) submit a fraudulent claim; or~~
- ~~—— (ii) misrepresent a material fact in requesting a reparations award.~~
- ~~—— (b) A violation of Subsection (2)(a) is:~~
- ~~—— (i) a class B misdemeanor if:~~
- ~~—— (A) the individual who violates Subsection (2)(a) does not receive a reparations award;~~
- ~~or~~
- ~~—— (B) the value of the reparations award received is less than \$500;~~
- ~~—— (ii) a class A misdemeanor if the value of the reparations award received is or exceeds \$500 but is less than \$1,500;~~
- ~~—— (iii) a third degree felony if the value of the reparations award received is or exceeds \$1,500 but is less than \$5,000; and~~
- ~~—— (iv) a second degree felony if the value of the reparations award received is or exceeds \$5,000.~~
- ~~—— (3) The state attorney general may prosecute violations under this section or may make arrangements with county or city attorneys for the prosecution of violations under this section when the attorney general cannot conveniently prosecute.~~
- ~~—— (4) (a) A claimant who is not eligible to receive a reparations award under Subsection (1) but receives a reparations award shall reimburse the fund for the amount of the reparations award.~~
- ~~—— (b) The office may bring a civil action against a victim who does not reimburse the fund for the amount of the reparations award in accordance with Subsection (4)(a).~~
- ~~—— Section 35. Section ~~67-5d-307~~, which is renumbered from Section 63M-7-511 is renumbered and amended to read:~~
- ~~—— [~~63M-7-511~~]. ~~67-5d-307. Compensable losses and amounts:~~~~
- ~~—— A reparations award under this part may be made if:~~
- ~~—— (1) the reparations officer finds the reparations claim satisfies the requirements for the reparations award under the provisions of this part and the rules of the board;~~
- ~~—— (2) money is available in the fund;~~
- ~~—— (3) the individual for whom the reparations award is to be paid is otherwise eligible under this part; and~~

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- ~~—— (4) the reparations claim is for an allowable expense incurred by the victim, as follows:~~
- ~~—— (a) reasonable and necessary charges incurred for products, services, and accommodations;~~
- ~~—— (b) inpatient and outpatient medical treatment and physical therapy, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~
- ~~—— (c) mental health counseling that:~~
- ~~—— (i) is set forth in a mental health treatment plan that is approved before any payment is made by a reparations officer; and~~
- ~~—— (ii) qualifies within any further rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~
- ~~—— (d) actual loss of past earnings and anticipated loss of future earnings because of a death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the individual's weekly gross salary or wages or the maximum amount allowed under the state workers' compensation statute;~~
- ~~—— (e) care of minor children enabling a victim or spouse of a victim, but not both, to continue gainful employment at a rate per child per week as determined under rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~
- ~~—— (f) funeral and burial expenses for death caused by the criminally injurious conduct, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~
- ~~—— (g) loss of support to a dependent not otherwise compensated for a pecuniary loss for personal injury, for as long as the dependence would have existed had the victim survived, at a rate not to exceed 66-2/3% of the individual's weekly salary or wages or the maximum amount allowed under the state workers' compensation statute, whichever is less;~~
- ~~—— (h) personal property necessary and essential to the health or safety of the victim as defined by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~
- ~~—— (i) medical examinations, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from Sections [63M-7-509, 63M-7-512, and 63M-7-513] 67-5d-305, 67-5d-309, and 67-5d-310.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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~~\_\_\_\_\_ (2) The office is exempt from Title 63G, Chapter 4, Administrative Procedures Act. \_\_\_\_\_ Section 41. Section **67-5d-313**, which is renumbered from Section 63M-7-516 is renumbered and amended to read:~~

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

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

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

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

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

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

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

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

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

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

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

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

~~\_\_\_\_\_ Section 43. Section **67-5d-315**, which is renumbered from Section 63M-7-518 is~~



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renumbered and amended to read:

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

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

~~\_\_\_\_\_ Section 44. Section 67-5d-316, which is renumbered from Section 63M-7-519 is renumbered and amended to read:~~

~~\_\_\_\_\_ [63M-7-519]. \_\_\_\_\_ 67-5d-316. Assignment of recovery == Reimbursement.~~

~~\_\_\_\_\_ (1) (a) By accepting a reparations award, the victim:~~

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

~~\_\_\_\_\_ (ii) is required to reimburse the office if the victim recovers any money relating to the criminally injurious conduct.~~

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

~~\_\_\_\_\_ (i) the amount paid by the office; or~~

~~\_\_\_\_\_ (ii) the amount recovered by the victim from the third party.~~

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

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

~~\_\_\_\_\_ (a) the reduction will benefit the fund; or~~

~~\_\_\_\_\_ (b) the victim has ongoing expenses related to the offense upon which the reparations claim is based and the benefit to the victim of reducing the office's right of reimbursement exceeds the benefit to the office of receiving full reimbursement.~~

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

~~\_\_\_\_\_ Section 45. Section 67-5d-317, which is renumbered from Section 63M-7-521 is renumbered and amended to read:~~

~~\_\_\_\_\_ [63M-7-521]. \_\_\_\_\_ 67-5d-317. Reparations award == Payment methods == Claims~~

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### ~~against the award:~~

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

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

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

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

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

~~—— (3) (a) A reparations award for future economic loss payable in installments may be made only for a period for which the reparations officer can reasonably determine future economic loss:~~

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

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

~~—— (5) An assignment or agreement to assign a reparations award for loss accruing in the future is unenforceable, except:~~

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

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

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assignee; or

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

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

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

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

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

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

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

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

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

~~\_\_\_\_\_ (3) The office may:~~

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

~~\_\_\_\_\_ (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement the fee schedule adopted in accordance with this section.~~

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

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

~~\_\_\_\_\_ (1) If the reparations officer determines that the claimant will suffer financial hardship~~

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~~unless an emergency reparations award is made, and it appears likely that a final reparations award will be made, an amount may be paid to the claimant, to be deducted from the final reparations award or repaid by and recoverable from the claimant to the extent that it exceeds the final reparations award:~~

~~—— (2) The board may limit emergency reparations awards under Subsection (1) to any amount the board considers necessary:~~

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

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

~~—— (1) The reparations officer shall review at least annually every reparations award being paid in installments:~~

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

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

~~—— ~~[63M-7-524].~~ 67-5d-321. Attorney fees.~~

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

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

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

~~—— (b) when minor dependents of a deceased victim require assistance in establishing a trust or determining a guardian:~~

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

~~—— (b) This Subsection (3) does not apply to attorneys who assist the victim in filing a civil action against the perpetrator:~~

~~—— Section 50. Section ~~67-5d-322~~, which is renumbered from Section 63M-7-525 is~~

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renumbered and amended to read:

~~\_\_\_\_\_ [63M-7-525]. \_\_\_\_\_ 67-5d-322. Purpose -- Not entitlement program.~~

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

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

~~\_\_\_\_\_ (2) (a) The assistance program described in Subsection (1) is not an entitlement program.~~

~~\_\_\_\_\_ (b) A reparations award may be limited or denied as determined appropriate by the board.~~

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

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

~~\_\_\_\_\_ Section 51. Section 67-5d-323, which is renumbered from Section 63M-7-526 is renumbered and amended to read:~~

~~\_\_\_\_\_ [63M-7-526]. \_\_\_\_\_ 67-5d-323. Crime Victims Reparations Fund:~~

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

~~\_\_\_\_\_ (b) The fund shall consist of:~~

~~\_\_\_\_\_ (i) appropriations by the Legislature; and~~

~~\_\_\_\_\_ (ii) funds collected under Subsections (2) and (3).~~

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

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

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

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

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

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

### ~~Part 4. Crime Victim Reparations Assistance Board~~

~~—— [63M-7-504]. ~~67-5d-401. Crime Victim Reparations and Assistance Board~~~~  
~~==Members:~~

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

~~—— (b) The membership of the board shall consist of:~~

~~—— (i) a member of the bar of this state;~~

~~—— (ii) a victim of criminally injurious conduct;~~

~~—— (iii) a licensed physician;~~

~~—— (iv) a representative of law enforcement;~~

~~—— (v) a mental health care provider;~~

~~—— (vi) a victim advocate; and~~

~~—— (vii) a private citizen.~~

~~—— (c) The [governor] attorney general may appoint a chair of the board who shall serve for a period of time prescribed by the governor, not to exceed the length of the chair's term. The board may elect a vice chair to serve in the absence of the chair.~~

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

~~—— (2) (a) Except as required by Subsection (2)(b), as terms of current board members expire, the [governor] attorney general shall appoint each new member or reappointed member~~

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to a four-year term.

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

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

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

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

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

~~—— (a) Section 63A-3-106;~~

~~—— (b) Section 63A-3-107; and~~

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

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

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

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

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

~~—— (1) The board shall:~~

~~—— (a) adopt a description of the office and prescribe the general operation of the board;~~

~~—— (b) prescribe policy for the office;~~

~~—— (c) adopt rules to implement and administer this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may include setting of ceilings on reparations, defining of terms not specifically stated in this part, and establishing of rules governing attorney fees;~~

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- ~~—— (d) prescribe forms for applications for reparations;~~
  - ~~—— (e) review all reparations awards made by the reparations staff, although the board may not reverse or modify reparations awards authorized by the reparations staff;~~
  - ~~—— (f) render an annual report to the governor and the Legislature regarding the staffs and the board's activities;~~
  - ~~—— (g) cooperate with the director and the director's staff in formulating standards for the uniform application of Section [63M-7-509] 67-5d-305, taking into consideration the rates and amounts of reparation payable for injuries and death under other laws of this state and the United States;~~
  - ~~—— (h) allocate money available in the fund to victims of criminally injurious conduct for reparations claims;~~
  - ~~—— (i) allocate money available to other victim services as provided by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, once a sufficient reserve has been established for reparation claims; and~~
  - ~~—— (j) approve the allocation and disbursement of funds made available to the office by the United States, the state, foundations, corporations, or other entities or individuals to subgrantees from private, non-profit, and governmental entities operating qualified statewide assistance programs.~~
- ~~—— (2) All rules, or other statements of policy, along with application forms specified by the board, are binding upon the director, the reparations officers, assistance officers, and other staff.~~
- ~~—— (3) The board may request assistance from the division, the office, the Office of the Attorney General, the Department of Public Safety, or any other state agency in conducting research or monitoring programs under this part.~~

~~—— Section 54. Section 67-5d-501, which is renumbered from Section 67-5b-102 is renumbered and amended to read:~~

### ~~Part 5. Children's Justice Center Program~~

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

- ~~—— (1) (a) There is established the Children's Justice Center Program to provide a comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a~~



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~~facility known as a Children's Justice Center:~~

- ~~—— (b) The [attorney general] division director shall administer the program.~~
- ~~—— (c) The [attorney general] division director shall:~~
  - ~~—— (i) allocate the funds appropriated by a line item pursuant to Section [67-5b-103] 67-5d-502;~~
  - ~~—— (ii) administer applications for state and federal grants and subgrants;~~
  - ~~—— (iii) maintain an advisory board that is associated with the program to comply with requirements of grants that are associated with the program;~~
  - ~~—— (iv) assist in the development of new centers;~~
  - ~~—— (v) coordinate services between centers;~~
  - ~~—— (vi) contract with counties and other entities for the provision of services;~~
  - ~~—— (vii) [(A)] provide training, technical assistance, and evaluation to centers; [and]~~
    - ~~—— [(B)] (viii) ensure that any training described in Subsection (1)(c)(vii)[(A)] complies with Title 63G, Chapter 22, State Training and Certification Requirements; and~~
    - ~~—— [(viii)] (ix) provide other services to comply with established minimum practice standards as required to maintain the state's and centers' eligibility for grants and subgrants.~~
- ~~—— (2) (a) The [attorney general] division director shall establish Children's Justice Centers, satellite offices, or multidisciplinary teams in Beaver County, Box Elder County, Cache County, Carbon County, Davis County, Duchesne County, Emery County, Grand County, Iron County, Juab County, Kane County, Salt Lake County, San Juan County, Sanpete County, Sevier County, Summit County, Tooele County, Uintah County, Utah County, Wasatch County, Washington County, and Weber County.~~
- ~~—— (b) The [attorney general] division director may establish other centers, satellites, or multidisciplinary teams within a county and in other counties of the state.~~
- ~~—— (3) The [attorney general] division director and each center shall:~~
  - ~~—— (a) coordinate the activities of the public agencies involved in the investigation and prosecution of child abuse cases and the delivery of services to child abuse victims and child abuse victims' families;~~
  - ~~—— (b) provide a neutral, child-friendly program, where interviews are conducted and services are provided to facilitate the effective and appropriate disposition of child abuse cases in juvenile, civil, and criminal court proceedings;~~

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- ~~—— (c) facilitate a process for interviews of child abuse victims to be conducted in a professional and neutral manner;~~
- ~~—— (d) obtain reliable and admissible information that can be used effectively in child abuse cases in the state;~~
- ~~—— (e) maintain a multidisciplinary team that includes representatives of public agencies involved in the investigation and prosecution of child abuse cases and in the delivery of services to child abuse victims and child abuse victims' families;~~
- ~~—— (f) hold regularly scheduled case reviews with the multidisciplinary team;~~
- ~~—— (g) coordinate and track:~~
- ~~—— (i) investigation of the alleged offense; and~~
- ~~—— (ii) preparation of prosecution;~~
- ~~—— (h) maintain a working protocol that addresses the center's procedures for conducting forensic interviews and case reviews, and for ensuring a child abuse victim's access to medical and mental health services;~~
- ~~—— (i) maintain a system to track the status of cases and the provision of services to child abuse victims and child abuse victims' families;~~
- ~~—— (j) provide training for professionals involved in the investigation and prosecution of child abuse cases and in the provision of related treatment and services;~~
- ~~—— (k) enhance community understanding of child abuse cases; and~~
- ~~—— (l) provide as many services as possible that are required for the thorough and effective investigation of child abuse cases.~~
- ~~—— (4) To assist a center in fulfilling the requirements and statewide purposes as provided in Subsection (3), each center may obtain access to any relevant juvenile court legal records and adult court legal records, unless sealed by the court.~~

~~—— Section 55. Section **67-5d-502**, which is renumbered from Section 67-5b-103 is renumbered and amended to read:~~

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

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

~~—— (2) The money appropriated shall be used to contract with the county responsible for~~

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~~the operation and accountability of a center in accordance with Section [67-5b-102] 67-5d-501.~~

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

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

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

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

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

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

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

~~—— (d) the division of Child and Family Services;~~

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

~~—— (f) at least one representative of any other governmental entity that participates in child abuse investigations or offers services to child abuse victims that desires to participate in the operation of the center.~~

~~—— (2) A memorandum of understanding executed under this section shall include the agreement of each public agency, or its representative, described in Subsection (1) to cooperate in:~~

~~—— (a) developing a comprehensive and cooperative multidisciplinary team approach to investigating child abuse;~~

~~—— (b) reducing, to the greatest extent possible, the number of interviews required of a victim of child abuse to minimize the negative impact of the investigation on the child; and~~

~~—— (c) developing, maintaining, and supporting, through the center, an environment that~~

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emphasizes the best interests of children:

~~Section 57. Section 67-5d-504, which is renumbered from Section 67-5b-105 is renumbered and amended to read:~~

~~[67-5b-105]. **67-5d-504. Local advisory boards -- Membership.**~~

~~(1) The cooperating public agencies and other persons shall make up each center's local advisory board, which shall be composed of the following people from the county or area:~~

~~(a) the local center director or the director's designee;~~

~~(b) a district attorney or county attorney having criminal jurisdiction or any designee;~~

~~(c) a representative of the attorney general's office, designated by the attorney general;~~

~~(d) at least one official from a local law enforcement agency or the local law enforcement agency's designee;~~

~~(e) the county executive or the county executive's designee;~~

~~(f) a licensed nurse practitioner, physician assistant, or physician;~~

~~(g) a licensed mental health professional;~~

~~(h) a criminal defense attorney;~~

~~(i) at least four members of the community at large;~~

~~(j) a guardian ad litem or representative of the Office of Guardian Ad Litem, designated by the director;~~

~~(k) a representative of the Division of Child and Family Services within the Department of Human Services, designated by the employee of the division who has supervisory responsibility for the county served by the center;~~

~~(l) if a center serves more than one county, one representative from each county served, appointed by the county executive; and~~

~~(m) additional members appointed as needed by the county executive.~~

~~(2) The members on each local advisory board who serve due to public office as provided in Subsections (1)(b) through (e) shall select the remaining members. The members on each local advisory board shall select a chair of the local advisory board.~~

~~(3) The local advisory board may not supersede the authority of the contracting county as designated in Section [67-5b-104] 67-5d-503.~~

~~(4) Appointees and designees shall serve a term or terms as designated in the bylaws of the local advisory board.~~

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~~Section 58. Section 67-5d-505, which is renumbered from Section 67-5b-107 is renumbered and amended to read:~~

~~[67-5b-107]. 67-5d-505. Immunity -- Limited liability.~~

~~(1) Officers and employees performing services for two or more public agencies pursuant to contracts executed under the provisions of this part are considered to be officers and employees of the public agency employing their services, even though performing those functions outside of the territorial limits of any one of the contracting public agencies, and are considered to be officers and employees of public agencies in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah.~~

~~(2) The officers and employees of the center, while acting within the scope of their authority, are not subject to any personal or civil liability resulting from carrying out any of the purposes of a center under the provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah.~~

~~(3) A volunteer is considered a government employee in accordance with Section 67-20-3 and entitled to immunity under the provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah.~~

~~(4) A volunteer, other than one considered a government employee in accordance with Section 67-20-3, may not incur any personal financial liability for any tort claim or other action seeking damage for an injury arising from any act or omission of the volunteer while providing services for the nonprofit organization if:~~

~~(a) the individual was acting in good faith and reasonably believed he was acting within the scope of the individual's official functions and duties with the center; and~~

~~(b) the damage or injury was not caused by an intentional or knowing act by the volunteer which constitutes illegal or wanton misconduct.~~

~~(5) The center is not liable for the acts or omissions of its volunteers in any circumstance where the acts of its volunteers are not as described in Subsection (4) unless:~~

~~(a) the center had, or reasonably should have had, reasonable notice of the volunteer's unfitness to provide services to the center under circumstances that make the center's use of the volunteer reckless or wanton in light of that notice; or~~

~~(b) a business employer would be liable under the laws of this state if the act or omission were the act or omission of one of its employees.~~

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~~Section 59. Section 76-3-201 is amended to read:~~

~~76-3-201. Definitions -- Sentences or combination of sentences allowed -- Civil penalties:~~

~~(1) As used in this section:~~

~~(a) "Conviction" includes a:~~

~~(i) judgment of guilt;~~

~~(ii) plea of guilty; or~~

~~(iii) plea of no contest.~~

~~(b) "Criminal activities" means any misdemeanor or felony offense for which the defendant is convicted or any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.~~

~~(c) "Pecuniary damages" means all special damages, but not general damages, which a person could recover against the defendant in a civil action arising out of the facts or events constituting the defendant's criminal activities and includes the money equivalent of property taken, destroyed, broken, or otherwise harmed, and losses including earnings and medical expenses.~~

~~(d) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, and payment for expenses to a governmental entity for extradition or transportation and as further defined in Title 77, Chapter 38a, Crime Victims Restitution Act.~~

~~(e) (i) "Victim" means any person or entity, including the Utah Office for Victims of Crime, who the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.~~

~~(ii) "Victim" does not include a codefendant or accomplice.~~

~~(2) Within the limits prescribed by this chapter, a court may sentence a person convicted of an offense to any one of the following sentences or combination of them:~~

~~(a) to pay a fine;~~

~~(b) to removal or disqualification from public or private office;~~

~~(c) to probation unless otherwise specifically provided by law;~~

~~(d) to imprisonment;~~

~~(e) on or after April 27, 1992, to life in prison without parole; or~~

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- ~~—— (f) to death;~~
- ~~—— (3) (a) This chapter does not deprive a court of authority conferred by law to:~~
  - ~~—— (i) forfeit property;~~
  - ~~—— (ii) dissolve a corporation;~~
  - ~~—— (iii) suspend or cancel a license;~~
  - ~~—— (iv) permit removal of a person from office;~~
  - ~~—— (v) cite for contempt; or~~
  - ~~—— (vi) impose any other civil penalty.~~
- ~~—— (b) A civil penalty may be included in a sentence.~~
- ~~—— (4) (a) When a person is convicted of criminal activity that has resulted in pecuniary damages, in addition to any other sentence it may impose, the court shall order that the defendant make restitution to the victims, or for conduct for which the defendant has agreed to make restitution as part of a plea agreement.~~
- ~~—— (b) In determining whether restitution is appropriate, the court shall follow the criteria and procedures as provided in Title 77, Chapter 38a, Crime Victims Restitution Act.~~
- ~~—— (c) In addition to any other sentence the court may impose, the court, pursuant to the provisions of Sections [63M-7-503] 67-5d-304 and 77-38a-401, shall enter:~~
  - ~~—— (i) a civil judgment for complete restitution for the full amount of expenses paid on behalf of the victim by the Utah Office for Victims of Crime; and~~
  - ~~—— (ii) an order of restitution for restitution payable to the Utah Office for Victims of Crime in the same amount unless otherwise ordered by the court pursuant to Subsection (4)(d).~~
- ~~—— (d) In determining whether to order that the restitution required under Subsection (4)(c) be reduced or that the defendant be exempted from the restitution, the court shall consider the criteria under Subsections 77-38a-302(5)(c)(i) through (vi) and provide findings of its decision on the record.~~
- ~~—— (5) (a) In addition to any other sentence the court may impose, and unless otherwise ordered by the court, the defendant shall pay restitution of governmental transportation expenses if the defendant was:~~
  - ~~—— (i) transported pursuant to court order from one county to another within the state at governmental expense to resolve pending criminal charges;~~
  - ~~—— (ii) charged with a felony or a class A, B, or C misdemeanor; and~~

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- ~~—— (iii) convicted of a crime.~~
- ~~—— (b) The court may not order the defendant to pay restitution of governmental transportation expenses if any of the following apply:~~
  - ~~—— (i) the defendant is charged with an infraction or on a subsequent failure to appear a warrant is issued for an infraction; or~~
  - ~~—— (ii) the defendant was not transported pursuant to a court order.~~
- ~~—— (c) (i) Restitution of governmental transportation expenses under Subsection (5)(a)(i) shall be calculated according to the following schedule:~~
  - ~~—— (A) \$100 for up to 100 miles a defendant is transported;~~
  - ~~—— (B) \$200 for 100 up to 200 miles a defendant is transported; and~~
  - ~~—— (C) \$350 for 200 miles or more a defendant is transported.~~
- ~~—— (ii) The schedule of restitution under Subsection (5)(c)(i) applies to each defendant transported regardless of the number of defendants actually transported in a single trip.~~
- ~~—— (d) If a defendant has been extradited to this state under Title 77, Chapter 30, Extradition, to resolve pending criminal charges and is convicted of criminal activity in the county to which he has been returned, the court may, in addition to any other sentence it may impose, order that the defendant make restitution for costs expended by any governmental entity for the extradition:~~
  - ~~—— (6) (a) In addition to any other sentence the court may impose, and unless otherwise ordered by the court pursuant to Subsection (6)(c), the defendant shall pay restitution to the county for the cost of incarceration and costs of medical care provided to the defendant while in the county correctional facility before and after sentencing if:~~
    - ~~—— (i) the defendant is convicted of criminal activity that results in incarceration in the county correctional facility; and~~
    - ~~—— (ii) (A) the defendant is not a state prisoner housed in a county correctional facility through a contract with the Department of Corrections; or~~
      - ~~—— (B) the reimbursement does not duplicate the reimbursement provided under Section 64-13e-104 if the defendant is a state probationary inmate, as defined in Section 64-13e-102, or a state parole inmate, as defined in Section 64-13e-102.~~
- ~~—— (b) (i) The costs of incarceration under Subsection (6)(a) are the amount determined by the county correctional facility, but may not exceed the daily inmate incarceration costs and~~



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~~medical and transportation costs for the county correctional facility:~~

~~—— (ii) The costs of incarceration under Subsection (6)(a) do not include expenses incurred by the county correctional facility in providing reasonable accommodation for an inmate qualifying as an individual with a disability as defined and covered by the federal Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213, including medical and mental health treatment for the inmate's disability:~~

~~—— (c) In determining whether to order that the restitution required under this Subsection (6) be reduced or that the defendant be exempted from the restitution, the court shall consider the criteria under Subsections 77-38a-302(5)(c)(i) through (vi) and shall enter the reason for its order on the record:~~

~~—— (d) If on appeal the defendant is found not guilty of the criminal activity under Subsection (6)(a)(i) and that finding is final as defined in Section 76-1-304, the county shall reimburse the defendant for restitution the defendant paid for costs of incarceration under Subsection (6)(a):~~

~~—— (7) In addition to any other sentence the court may impose, the court shall determine whether costs are appropriate pursuant to Section 77-32a-107.~~

~~—— Section 60. Section 77-37-4 is amended to read:~~

~~—— 77-37-4. **Additional rights -- Children.**~~

~~—— In addition to all rights afforded to victims and witnesses under this chapter, child victims and witnesses shall be afforded these rights:~~

~~—— (1) Children have the right to protection from physical and emotional abuse during their involvement with the criminal justice process:~~

~~—— (2) Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility. Those who interview children have the responsibility to consider the interests of the child in this regard:~~

~~—— (3) Child victims and witnesses have the right to have interviews relating to a criminal prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are conducted by persons sensitive to the needs of children:~~

~~—— (4) Child victims have the right to be informed of available community resources that might assist them and how to gain access to those resources. Law enforcement and prosecutors~~

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~~have the duty to ensure that child victims are informed of community resources, including counseling prior to the court proceeding, and have those services available throughout the criminal justice process:~~

~~—— (5) (a) Child victims have the right, once an investigation has been initiated by law enforcement or the Division of Child and Family Services, to keep confidential their interviews that are conducted at a Children's Justice Center, including video and audio recordings, and transcripts of those recordings. Except as provided in Subsection (6), recordings and transcripts of interviews may not be distributed, released, or displayed to anyone without a court order:~~

~~—— (b) A court order described in Subsection (5)(a):~~

~~—— (i) shall describe with particularity to whom the recording or transcript of the interview may be released and prohibit further distribution or viewing by anyone not named in the order; and~~

~~—— (ii) may impose restrictions on access to the materials considered reasonable to protect the privacy of the child victim.~~

~~—— (c) A parent or guardian of the child victim may petition a juvenile or district court for an order allowing the parent or guardian to view a recording or transcript upon a finding of good cause. The order shall designate the agency that is required to display the recording or transcript to the parent or guardian and shall prohibit viewing by anyone not named in the order:~~

~~—— (d) Following the conclusion of any legal proceedings in which the recordings or transcripts are used, the court shall order the recordings and transcripts in the court's file sealed and preserved:~~

~~—— (6) (a) The following offices and their designated employees may distribute and receive a recording or transcript to and from one another without a court order:~~

~~—— (i) the Division of Child and Family Services;~~

~~—— (ii) administrative law judges employed by the Department of Human Services;~~

~~—— (iii) Department of Human Services investigators investigating the Division of Child and Family Services or investigators authorized to investigate under Section 62A-4a-202.6;~~

~~—— (iv) an office of the city attorney, county attorney, district attorney, or attorney general;~~

~~—— (v) a law enforcement agency;~~

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- ~~—— (vi) a Children's Justice Center established under Section [67-5b-102] 67-5d-501, or~~
- ~~—— (vii) the attorney for the child who is the subject of the interview.~~
- ~~—— (b) In a criminal case or in a juvenile court in which the state is a party:~~
  - ~~—— (i) the parties may display and enter into evidence a recording or transcript in the course of a prosecution;~~
  - ~~—— (ii) the state's attorney may distribute a recording or transcript to the attorney for the defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for discovery;~~
  - ~~—— (iii) the attorney for the defendant or respondent may do one or both of the following:~~
    - ~~—— (A) release the recording or transcript to an expert retained by the attorney for the defendant or respondent if the expert agrees in writing that the expert will not distribute, release, or display the recording or transcript to anyone without prior authorization from the court; or~~
    - ~~—— (B) permit the defendant or respondent to view the recording or transcript, but may not distribute or release the recording or transcript to the defendant or respondent; and~~
  - ~~—— (iv) the court shall advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be distributed, released, or displayed without prior authorization from the court.~~
- ~~—— (c) A court's failure to advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be used as a defense to prosecution for a violation of the disclosure rule.~~
- ~~—— (d) In an administrative case, pursuant to a written request, the Division of Child and Family Services may display, but may not distribute or release, a recording or transcript to the respondent or to the respondent's designated representative.~~
- ~~—— (e) (i) Within two business days of a request from a parent or guardian of a child victim, an investigative agency shall allow the parent or guardian to view a recording after the conclusion of an interview, unless:~~
  - ~~—— (A) the suspect is a parent or guardian of the child victim;~~
  - ~~—— (B) the suspect resides in the home with the child victim; or~~
  - ~~—— (C) the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation.~~

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~~—— (ii) If the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation, the parent or guardian may petition a juvenile or district court for an expedited hearing on whether there is good cause for the court to enter an order allowing the parent or guardian to view the recording in accordance with Subsection (5)(c).~~

~~—— (iii) A Children's Justice Center shall coordinate the viewing of the recording described in this Subsection (6)(c).~~

~~—— (f) A multidisciplinary team assembled by a Children's Justice Center or an interdisciplinary team assembled by the Division of Child and Family Services may view a recording or transcript, but may not receive a recording or transcript.~~

~~—— (g) A Children's Justice Center:~~

~~—— (i) may distribute or display a recording or transcript to an authorized trainer or evaluator for purposes of training or evaluation; and~~

~~—— (ii) may display, but may not distribute, a recording or transcript to an authorized trainee.~~

~~—— (h) An authorized trainer or instructor may display a recording or transcript according to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center or according to the authorized trainer's or instructor's scope of employment.~~

~~—— (i) (i) In an investigation under Section 53E-6-506, in which a child victim who is the subject of the recording or transcript has alleged criminal conduct against an educator, a law enforcement agency may distribute or release the recording or transcript to an investigator operating under State Board of Education authorization, upon the investigator's written request.~~

~~—— (ii) If the respondent in a case investigated under Section 53E-6-506 requests a hearing authorized under that section, the investigator operating under State Board of Education authorization may display, release, or distribute the recording or transcript to the prosecutor operating under State Board of Education authorization or to an expert retained by an investigator.~~

~~—— (iii) Upon request for a hearing under Section 53E-6-506, a prosecutor operating under State Board of Education authorization may display the recording or transcript to a pro-se respondent, to an attorney retained by the respondent, or to an expert retained by the respondent.~~

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~~—— (iv) The parties to a hearing authorized under Section 53E-6-506 may display and enter into evidence a recording or transcript in the course of a prosecution:~~

~~—— (7) Except as otherwise provided in this section, it is a class B misdemeanor for any individual to distribute, release, or display any recording or transcript of an interview of a child victim conducted at a Children's Justice Center:~~

~~—— Section 61. Section 77-37-5 is amended to read:~~

~~—— 77-37-5. Remedies -- District Victims' Rights Committee:~~

~~—— (1) In each judicial district, the Utah Council on Victims of Crime, established in Section [63M-7-601] 67-5d-201, shall appoint a person who shall chair a judicial district victims' rights committee consisting of:~~

~~—— (a) a county attorney or district attorney;~~

~~—— (b) a sheriff;~~

~~—— (c) a corrections field services administrator;~~

~~—— (d) an appointed victim advocate;~~

~~—— (e) a municipal attorney;~~

~~—— (f) a municipal chief of police; and~~

~~—— (g) other representatives as appropriate.~~

~~—— (2) The committee shall meet at least semiannually to review progress and problems related to this chapter, Title 77, Chapter 38, Rights of Crime Victims Act, Title 77, Chapter 38a, Crime Victims Restitution Act, and Utah Constitution Article I, Section 28. Victims and other interested parties may submit matters of concern to the victims' rights committee. The committee may hold a hearing open to the public on any appropriate matter of concern and may publish its findings. These matters shall also be considered at the meetings of the victims' rights committee. The committee shall forward minutes of all meetings to the Utah Council on Victims of Crime for review and other appropriate action.~~

~~—— (3) If a victims' rights committee is unable to resolve a complaint, it may refer the complaint to the Utah Council on Victims of Crime.~~

~~—— (4) The Utah Office for Victims of Crime shall provide materials to local law enforcement to inform every victim of a sexual offense of the right to request testing of the convicted sexual offender and of the victim as provided in Section 76-5-502.~~

~~—— (5) (a) If a person acting under color of state law willfully or wantonly fails to perform~~

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~~duties so that the rights in this chapter are not provided, an action for injunctive relief may be brought against the individual and the government entity that employs the individual:~~

~~—— (b) For all other violations, if the committee finds a violation of a victim's right, it shall refer the matter to the appropriate court for further proceedings consistent with Subsection 77-38-11(2).~~

~~—— (c) The failure to provide the rights in this chapter or Title 77, Chapter 38, Rights of Crime Victims Act, does not constitute cause for a judgment against the state or any government entity, or any individual employed by the state or any government entity, for monetary damages, attorney fees, or the costs of exercising any rights under this chapter:~~

~~—— (6) The person accused of and subject to prosecution for the crime or the act which would be a crime if committed by a competent adult, has no standing to make a claim concerning any violation of the provisions of this chapter:~~

~~—— Section 62. Section 77-38-302 is amended to read:~~

~~—— **77-38-302. Definitions.**~~

~~—— As used in this part:~~

~~—— (1) "Convicted person" means a person who has been convicted of a crime:~~

~~—— (2) "Conviction" means an adjudication by a federal or state court resulting from a trial or plea, including a plea of no contest, nolo contendere, a finding of not guilty due to insanity, or not guilty but having a mental illness regardless of whether the sentence was imposed or suspended:~~

~~—— (3) "Fund" means the Crime Victim Reparations Fund created in Section [63M-7-526] 67-5d-323:~~

~~—— (4) "Memorabilia" means any tangible property of a convicted person or a representative or assignee of a convicted person, the value of which is enhanced by the notoriety gained from the criminal activity for which the person was convicted:~~

~~—— (5) "Notoriety of crimes contract" means a contract or other agreement with a convicted person, or a representative or assignee of a convicted person, with respect to:~~

~~—— (a) the reenactment of a crime in any manner including a movie, book, magazine article, Internet website, recording, phonograph record, radio or television presentation, or live entertainment of any kind;~~

~~—— (b) the expression of the convicted person's thoughts, feelings, opinions, or emotions~~

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~~regarding a crime involving or causing personal injury, death, or property loss as a direct result of the crime; or~~

~~—— (c) the payment or exchange of any money or other consideration or the proceeds or profits that directly or indirectly result from the notoriety of the crime.~~

~~—— (6) "Office" means the Utah Office for Victims of Crime created in Section 67-5d-301.~~

~~—— (7) "Profit" means any income or benefit:~~

~~—— (a) over and above the fair market value of tangible property that is received upon the sale or transfer of memorabilia; or~~

~~—— (b) any money, negotiable instruments, securities, or other consideration received or contracted for gain which is traceable to a notoriety of crimes contract.~~

~~—— Section 63. Section **78B-6-2105** is amended to read:~~

~~—— **78B-6-2105. Civil action for enforcement -- Penalties.**~~

~~—— (1) A person who predominately distributes or otherwise predominately provides pornographic material to consumers with the intent to earn revenue or profit directly or indirectly from the distribution may not distribute any obscene material or performance as defined in Section 76-10-1203 without first giving a clear and reasonable warning of the harmful impact of exposing minors to the material or performance. The warning of the harm shall be prominently displayed in the following form:~~

~~"STATE OF UTAH WARNING~~

~~Exposing minors to obscene material may damage or negatively impact minors."~~

~~—— (2) (a) For print publications created after May 12, 2020, the warning in Subsection (1) shall be placed in clear, readable type on the cover of each publication which includes material as defined in Section 76-10-1201.~~

~~—— (b) For digital publications:~~

~~—— (i) the warning in Subsection (1) shall be displayed in searchable text format and for at least five seconds prior to the display of any video or each image which includes material as defined in Section 76-10-1201; or~~

~~—— (ii) if the website complies with Subsection 78B-6-2103(3), it is not required to display the warning in Subsection (1) prior to each video or image contained on the website.~~

~~—— (3) A person who violates this section shall be liable for a civil penalty not to exceed \$2,500 per violation, plus filing fees and attorney fees, in addition to any other penalty~~

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~~established by law, and enjoined from further violations. The civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction. Each of the following violations shall create a separate liability per violation:~~

~~—— (a) the sale or display of potentially harmful content without the warning required in Subsection (1), in accordance with Subsection (2); or~~

~~—— (b) the absence of the following searchable text within the website's metadata = utahobscenitywarning;~~

~~—— (4) The determination by a court as to whether a person is distributing material the state considers to be obscene material or performance as defined in Section 78B-6-1203 shall be proven by clear and convincing evidence. All other elements of proof shall be proven by a preponderance of the evidence.~~

~~—— (5) The court, in ordering payment, shall specify each amount for the civil penalty, filing fees, and attorney fees.~~

~~—— (6) In assessing the amount of a civil penalty for a violation of this chapter, the court shall consider all of the following:~~

~~—— (a) the nature and extent of the violation;~~

~~—— (b) the number and severity of the violations;~~

~~—— (c) the economic effect of the penalty on the violator;~~

~~—— (d) whether the violator took good faith measures to comply with this chapter and when those measures were taken;~~

~~—— (e) the willfulness of the violator's misconduct;~~

~~—— (f) the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole; and~~

~~—— (g) any other factor that the court determines justice requires.~~

~~—— (7) Actions pursuant to this section may be brought by the attorney general's office in the name of the people of the state or by a private person in accordance with Subsection (8).~~

~~—— (8) A private person may bring an action in the public interest pursuant to this section if:~~

~~—— (a) the person has served notice of an alleged violation of Section 78B-6-2103 on the alleged violator and the attorney general's office;~~

~~—— (b) the attorney general's office has not provided a letter to the noticing party within 60~~



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~~days of receipt of the notice of an alleged violation indicating that:~~

~~—— (i) an action is currently being pursued or will be pursued by the attorney general's office regarding the violation; or~~

~~—— (ii) the attorney general believes that there is no merit to the action; and~~

~~—— (c) the alleged violator has not responded to the notice of alleged violation or returned the proof of compliance form provided in Subsection (14).~~

~~—— (9) If a lawsuit is commenced, the plaintiff may include additional violations in the claim that are discovered through the discovery process.~~

~~—— (10) Notice of the alleged violation shall be executed by the attorney for the noticing party, or by the noticing party, if the noticing party is not represented by an attorney, and include a notice of alleged violation. The notice of alleged violation shall:~~

~~—— (a) state that the person executing the notice believes that there is a violation; and~~

~~—— (b) provide factual information sufficient to establish the basis for the alleged violation.~~

~~—— (11) A person who serves a notice of alleged violation identified in Subsection (10) shall complete and provide to the alleged violator at the time the notice of alleged violation is served, a notice of special compliance procedure and proof of compliance form pursuant to Subsection (14). The person may file an action against the alleged violator, or recover from the alleged violator if:~~

~~—— (a) the notice of alleged violation alleges that the alleged violator failed to provide a clear and reasonable warning as required under Subsection (1); and~~

~~—— (b) within 14 days after receipt of the notice of alleged violation, the alleged violator has not:~~

~~—— (i) corrected the alleged violation and all similar violations known to the alleged violator;~~

~~—— (ii) agreed to pay a penalty for the alleged violation in the amount of \$500 per violation; and~~

~~—— (iii) notified, in writing, the noticing party that the violation has been corrected.~~

~~—— (12) The written notice required in Subsection (11)(b)(iii) shall be the notice of special compliance procedure and proof of compliance form specified in Subsection (14). The alleged violator shall deliver the civil penalty to the noticing party within 30 days of receipt of the notice of alleged violation.~~

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~~———— (13) The attorney general shall review the notice of alleged violation and may confer with the noticing party. If the attorney general believes there is no merit to the action, the attorney general shall, within 45 days of receipt of the notice of alleged violation, provide a letter to the noticing party and the alleged violator stating that the attorney general believes there is no merit to the action.~~

~~———— (14) The notice required to be provided to an alleged violator pursuant to Subsection (11) shall be presented as follows:~~

~~"Date:~~

~~Name of Noticing Party or attorney for Noticing Party:~~

~~Address:~~

~~Phone number:~~

~~SPECIAL COMPLIANCE PROCEDURE~~

~~PROOF OF COMPLIANCE~~

~~You are receiving this form because the Noticing Party listed above has alleged that you are in violation of Utah Code Section 78B-6-2103.~~

~~The Noticing Party may bring legal proceedings against you for the alleged violation checked below if:~~

~~(1) you have not actually taken the corrective steps that you have certified in this form;~~

~~(2) the Noticing Party has not received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice; and~~

~~(3) the Noticing Party does not receive the required \$500 penalty payment for each violation alleged from you at the address shown above postmarked within 30 days of your receiving this notice.~~

~~PART I: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY~~

~~This notice of alleged violation is for failure to warn against an exposure to minors of materials considered harmful to minors. (provide complete description of violation, including when and where observed)~~

~~Date:~~

~~Name of Noticing Party or attorney for Noticing Party:~~

~~Address:~~

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Phone number:

~~PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE~~

~~Certification of Compliance~~

~~Accurate completion of this form will demonstrate that you are now in compliance with Utah Code Section 78B-6-2103, for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.~~

~~I hereby agree to pay, within 30 days of receipt of this notice, a penalty of \$500 for each violation alleged to the Noticing Party only and certify that I have complied with by (check only one of the following):~~

~~Posting a warning or warnings, and attaching a copy of that warning and a photograph accurately showing its placement on the print or digital publication.~~

~~Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.~~

~~CERTIFICATION~~

~~My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under Utah Code Section 76-10-1206.~~

~~Signature of alleged violator or authorized representative:~~

~~Date:~~

~~Name and title of signatory: "~~

~~—— (15) An alleged violator may satisfy the conditions set forth in Subsection (14) only one time for a specific violation.~~

~~—— (16) Notwithstanding Subsection (14), the attorney general may file an action pursuant to Subsection (7) against an alleged violator. In any action, the amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator to a private person in accordance with Subsection (14) for the same alleged violation.~~

~~—— (17) Payments shall be made in accordance with this section.~~

~~—— (a) A civil penalty ordered by the court shall be paid to the plaintiff as directed by the~~

## HB0289S01 compared with HB0289

court.

~~—— (b) A penalty paid in accordance with the special compliance procedure in Subsection (14) shall be made directly to the noticing party.~~

~~—— (18) The Utah Office for Victims of Crime shall receive 50% of any penalty paid in accordance with this section. Funds received shall be deposited in the Crime Victim Reparations Fund created in Section [63M-7-526] 67-5d-323. The penalty amount upon which the 50% is calculated may not include attorney fees or costs awarded by the court.~~

~~—— (a) If the penalty is paid to a noticing party in accordance with Subsection (14), the noticing party shall remit the required amount along with a copy of the Special Compliance Procedure document.~~

~~—— (b) If a civil penalty is ordered by the court, the plaintiff shall remit the required amount along with a copy of the court order.~~

~~—— (19) The attorney general's office shall provide to the Utah Office for Victims of Crime a copy of all notices of alleged violations to which the attorney general's office did not respond with a letter of no merit in accordance with Subsection (13).~~

~~—— (20) The court shall provide to the Utah Office for Victims of Crime a copy of the court's order for payment.~~

~~—— (21) The Utah Office for Victims of Crime shall:~~

~~—— (a) maintain a record of documents and payments submitted pursuant to Subsections (18), (19), and (20);~~

~~—— (b) create and provide to the Legislature in odd-numbered years beginning November 2021, a report containing the following for the previous two years:~~

~~—— (i) the number of notices of alleged violations received from the attorney general's office;~~

~~—— (ii) the number of court orders received; and~~

~~—— (iii) the total amount received and deposited into the Crime Victim Reparations Fund.~~

~~—— (22) This section does not apply to:~~

~~—— (a) a person portrayed in obscene or pornographic material that is created, duplicated, or distributed without the person's knowledge or consent; or~~

~~—— (b) a person who is coerced or blackmailed into distributing obscene or pornographic material.~~

## HB0289S01 compared with HB0289

~~(23) Beginning May 1, 2025, and at each five-year interval, the dollar amount of the civil penalty provided in Subsection (3) shall be adjusted by the Judicial Council based on the change in the annual Consumer Price Index for the most recent five-year period ending on December 31 of the previous year, and rounded to the nearest five dollars. The attorney general shall publish the dollar amount of the civil penalty together with the date of the next scheduled adjustment.~~

~~Section 64. **Repealer.**~~

~~This bill repeals:~~

~~Section 63M-7-501, Title:~~

~~Section 63M-7-502, **Definitions.**~~

~~Section 63M-7-505, **Board and office within Commission on Criminal and Juvenile Justice.**~~

~~Section 67-5b-101, **Definitions.**~~

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