

HB0244S03 compared with HB0244S02

~~deleted text~~ shows text that was in HB0244S02 but was deleted in HB0244S03.

inserted text shows text that was not in HB0244S02 but was inserted into HB0244S03.

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Representative Ken Ivory proposes the following substitute bill:

UTAH VICTIM SERVICES COMMISSION AND VICTIM SERVICES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses the Utah Victim Services Commission and victim services.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of the State Commission on Criminal and Juvenile Justice, the Utah Substance Use and Mental Health Advisory Council, the Utah Council on Victims of Crime, and the Domestic Violence Offender Treatment Board;
- ▶ creates the Victim Services Restricted Account;
- ▶ addresses the funding and distribution of the Victim Services Restricted Account;
- ▶ creates the Utah Victim Services Commission (commission);
- ▶ addresses membership, appointment, terms, and vacancies for the commission;

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- ▶ addresses expenses for members of the commission;
- ▶ addresses the procedure and structure of the commission, including the appointment of a chair, the election of a vice chair, and the establishment of subcommittees;
- ▶ provides the duties of the commission, including the duties of the commission in regard to the Victim Services Restricted Account;
- ▶ addresses staffing of the commission;
- ▶ allows the commission to contract with a third party for certain services; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- ▶ to Governor's Office - State Commission on Criminal and Juvenile Justice - Utah Victim Services Commission, as an ongoing appropriation:
 - from the General Fund, \$550,000; and
- ▶ to Governor's Office - State Commission on Criminal and Juvenile Justice - Utah Victim Services Commission, as a one-time appropriation:
 - from the General Fund, \$500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-202, as last amended by Laws of Utah 2020, Chapter 354

63M-7-301, as last amended by Laws of Utah 2022, Chapter 255

63M-7-601, as last amended by Laws of Utah 2021, Chapter 172

63M-7-702, as enacted by Laws of Utah 2022, Chapter 145

ENACTS:

63M-7-219, Utah Code Annotated 1953

63M-7-801, Utah Code Annotated 1953

63M-7-802, Utah Code Annotated 1953

63M-7-803, Utah Code Annotated 1953

63M-7-804, Utah Code Annotated 1953

63M-7-805, Utah Code Annotated 1953

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

Section 1. Section **63M-7-202** is amended to read:

**63M-7-202. Composition -- Appointments -- Ex officio members -- Terms --
United States Attorney as nonvoting member.**

(1) The [~~commission on criminal and juvenile justice shall be composed of 25~~] State Commission on Criminal and Juvenile Justice is composed of 26 voting members as follows:

- (a) the chief justice of the supreme court, as the presiding officer of the judicial council, or a judge designated by the chief justice;
- (b) the state court administrator or the state court administrator's designee;
- (c) the executive director of the Department of Corrections or the executive director's designee;
- (d) the executive director of the [~~Department of Human Services~~] Department of Health and Human Services or the executive director's designee;
- (e) the commissioner of the Department of Public Safety or the commissioner's designee;
- (f) the attorney general or an attorney designated by the attorney general;
- (g) the president of the chiefs of police association or a chief of police designated by the association's president;
- (h) the president of the sheriffs' association or a sheriff designated by the association's president;
- (i) the chair of the Board of Pardons and Parole or a member of the Board of Pardons and Parole designated by the chair;
- (j) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing Commission designated by the chair;
- (k) the chair of the Utah Substance Use and Mental Health Advisory Council or a member of the Utah Substance Use and Mental Health Advisory Council designated by the chair;
- (l) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of Juvenile Justice designated by the chair;
- (m) the chair of the Utah Victim Services Commission or a member of the Utah Victim

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Services Commission designated by the chair;

~~[(m)]~~ (n) the chair of the Utah Council on Victims of Crime or a member of the Utah Council on Victims of Crime designated by the chair;

~~[(n)]~~ (o) the executive director of the Salt Lake Legal Defender Association or an attorney designated by the executive director;

~~[(o)]~~ (p) the chair of the Utah Indigent Defense Commission or a member of the Indigent Defense Commission designated by the chair;

~~[(p)]~~ (q) the Salt Lake County District Attorney or an attorney designated by the district attorney; and

~~[(q)]~~ (r) the following members designated to serve four-year terms:

(i) a juvenile court judge, appointed by the chief justice, as presiding officer of the Judicial Council;

(ii) a representative of the statewide association of public attorneys designated by the association's officers;

(iii) one member of the House of Representatives who is appointed by the speaker of the House of Representatives; and

(iv) one member of the Senate who is appointed by the president of the Senate.

(2) The governor shall appoint the remaining five members to four-year staggered terms as follows:

(a) one criminal defense attorney appointed from a list of three nominees submitted by the Utah State Bar Association;

(b) one attorney who primarily represents juveniles in delinquency matters appointed from a list of three nominees submitted by the Utah Bar Association;

(c) one representative of public education;

(d) one citizen representative; and

(e) a representative from a local faith who has experience with the criminal justice system.

(3) In addition to the members designated under Subsections (1) and (2), the United States Attorney for the district of Utah or an attorney designated by the United States Attorney may serve as a nonvoting member.

(4) In appointing the members under Subsection (2), the governor shall take into

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account the geographical makeup of the commission.

Section 2. Section **63M-7-219** is enacted to read:

63M-7-219. Victim Services Restricted Account -- Funding -- Uses.

(1) There is created in the General Fund a restricted account known as the "Victim Services Restricted Account."

(2) The Victim Services Restricted Account is funded by:

(a) money appropriated to the account by the Legislature;

(b) gifts, donations, or grants from private entities or individuals; and

(c) interest earned on money in the account.

(3) Subject to appropriation, the Legislature shall use the funds in the Victim Services Restricted Account to fund services for victims, including using funds for:

(a) services provided by Children's Justice Centers;

(b) services for sexual assault and domestic violence victims;

(c) services recommended by the Utah Victim Services Commission under Section 63M-7-804; or

(d) any administrative costs associated with implementing victim services.

Section 3. Section **63M-7-301** is amended to read:

63M-7-301. Definitions -- Creation of council -- Membership -- Terms.

(1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) one elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of Integrated Healthcare or the director's designee;

(e) the state superintendent of public instruction or the superintendent's designee;

(f) the executive director of the Department of Health and Human Services or the executive director's designee;

(g) the executive director of the State Commission on Criminal and Juvenile Justice or

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the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

(n) the state court administrator or the state court administrator's designee;

(o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) one prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

(t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection 62A-15-1101(2);

(u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

(v) the chair of the Utah Victim Services Commission or the chair's designee;

~~[(v)]~~ (w) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

~~[(w)]~~ (x) in addition to the voting members described in Subsections (2)(a) through ~~[(v)]~~ (w), the following voting members appointed by a majority of the members described in Subsections (2)(a) through ~~[(v)]~~ (w) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

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- (ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;
 - (iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;
 - (iv) one resident of the state who represents prevention professionals;
 - (v) one resident of the state who represents treatment professionals;
 - (vi) one resident of the state who represents the physical health care field;
 - (vii) one resident of the state who is a criminal defense attorney;
 - (viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;
 - (ix) one resident of the state who represents local law enforcement agencies;
 - (x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and
 - (xi) one resident of the state who is certified by the Division of Integrated Healthcare as a peer support specialist as described in Subsection 62A-15-103(2)(h).
- (3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the council.
- Section 4. Section **63M-7-601** is amended to read:
- 63M-7-601. Creation -- Members -- Chair.**
- (1) There is created within the governor's office the Utah Council on Victims of Crime.
 - (2) The council ~~[shall be]~~ is composed of ~~[27]~~ 28 voting members as follows:
 - (a) a representative of the State 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

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general;

(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;

(j) a professional or volunteer working in the area of violence against women and families appointed by the governor;

(k) a representative of the ~~[Department of Health's]~~ Department of Health and Human Services Violence and Injury Prevention Program appointed by the program's manager;

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

(m) a representative of the Statewide Association of Public Attorneys appointed by that association;

(n) a representative of the Utah Chiefs of Police Association appointed by the president of that association;

(o) a representative of the Utah Sheriffs' Association appointed by the president of that association;

(p) a representative of a Children's Justice Center appointed by the attorney general;

(q) the director of the Division of Child and Family Services or that individual's designee; ~~[and]~~

(r) the chair of the Utah Victim Services Commission or the chair's designee; and

~~[(r)]~~ (s) the following members appointed by the members in Subsections (2)(a) through ~~[(2)(q)]~~ (2)(r) to serve four-year terms:

(i) an individual who engages in community based advocacy;

(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.

Section 5. Section **63M-7-702** is amended to read:

63M-7-702. Domestic Violence Offender Treatment Board -- Creation --

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Membership -- Quorum -- Per diem -- Staff support -- Meetings.

(1) There is created within the commission the Domestic Violence Offender Treatment Board consisting of the following members:

(a) the executive director of the Department of Corrections, or the executive director's designee;

(b) the executive director of the Department of Health and Human Services, or the executive director's designee;

(c) one individual who represents a state program that focuses on prevention of injury and domestic violence appointed by the executive director of the Department of Health and Human Services;

(d) the commissioner of public safety for the Department of Public Safety, or the commissioner's designee;

(e) the chair of the Utah Victim Services Commission or the chair's designee;

~~[(e)]~~ (f) the director of the Utah Office for Victims of Crime, or the director's designee;

~~[(f)]~~ (g) the chair of the Board of Pardons and Parole, or the chair's designee;

~~[(g)]~~ (h) the director of the Division of Juvenile Justice Services, or the director's designee;

~~[(h)]~~ (i) one individual who represents the Administrative Office of the Courts appointed by the state court administrator; and

~~[(i)]~~ (j) ten individuals appointed by the executive director of the commission, including:

(i) the following four individuals licensed under Title 58, Chapter 60, Mental Health Professional Practice Act:

(A) a clinical social worker;

(B) a marriage and family therapist;

(C) a professional counselor; and

(D) a psychologist;

(ii) one individual who represents an association of criminal defense attorneys;

(iii) one criminal defense attorney who primarily represents indigent criminal defendants;

(iv) one individual who represents an association of prosecuting attorneys;

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(v) one individual who represents law enforcement;
(vi) one individual who represents an association of criminal justice victim advocates;
and
(vii) one individual who represents a nonprofit organization that provides domestic violence victim advocate services.

(2) (a) A member may not serve on the board for more than eight consecutive years.

(b) If a vacancy occurs in the membership of the board appointed under Subsection (1), the member shall be replaced in the same manner in which the original appointment was made.

(c) A member of the board serves until the member's successor is appointed.

(3) The members of the board shall vote on a chair and co-chair of the board to serve for two years.

(4) (a) A majority of the board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the board.

(5) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall provide staff support to the board.

(7) The board shall meet at least quarterly on a date the board sets.

Section 6. Section **63M-7-801** is enacted to read:

Part 8. Utah Victim Services Commission

63M-7-801. Definitions.

As used in this part:

(1) "Commission" means the Utah Victim Services Commission.

(2) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

(3) "Member" means a member of the Utah Victim Services Commission.

(4) "State domestic violence coalition" means the same as that term is defined in 45 C.F.R. Sec. 1370.2.

(5) "State sexual assault coalition" means the same as that term is defined in 34 U.S.C.

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Sec. 12291.

(6) "Tribal coalition" means the same as that term is defined in 34 U.S.C. Sec. 12291.

(7) "Victim Services Restricted Account" means the account created in Section 63M-7-219.

Section 7. Section **63M-7-802** is enacted to read:

63M-7-802. Creation -- Membership -- Terms -- Vacancies -- Expenses.

(1) There is created the Utah Victim Services Commission within the State Commission on Criminal and Juvenile Justice.

(2) The commission is composed of the following members:

(a) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(b) the director of the Utah Office for Victims of Crime or the director's designee;

(c) the executive director of the Department of Health and Human Services or the executive director's designee;

(d) the executive director of the Department of Corrections or the executive director's designee;

(e) the director of the Division of Multicultural Affairs or the director's designee;

(f) the executive director of the state sexual assault coalition for this state or the executive director's designee;

(g) the executive director of the state domestic violence coalition for this state or the executive director's designee;

(h) the executive director of the tribal coalition for this state or the executive director's designee;

(i) the director of the Children's Justice Center Program in the Office of the Attorney General or the director's designee;

(j) the chair of the Children's Justice Center Standing Committee or the chair's designee;

(k) the attorney general or the attorney general's designee;

(l) the commissioner of the Department of Public Safety or the commissioner's designee;

(m) a criminal justice system based advocate, appointed by the governor with the

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advice and consent of the Senate;

(n) a prosecuting attorney, appointed by the governor with the advice and consent of the Senate;

(o) a ~~law enforcement representative from the Utah Sheriffs Association or Utah Chiefs of Police Association,~~ appointed by the governor with the advice and consent of the Senate;

~~(p) an individual who is a victim of crime}~~ criminal defense attorney, appointed by the governor with the advice and consent of the Senate;

~~(q) one}~~ p) an indigent defense attorney, appointed by the governor with the advice and consent of the Senate;

(q) a law enforcement representative from the Utah Sheriffs Association or Utah Chiefs of Police Association, appointed by the governor with the advice and consent of the Senate;

(r) an individual who is a victim of crime, appointed by the governor with the advice and consent of the Senate;

(s) an individual who is a current or former representative from the House of Representatives or has experience or expertise with the legislative process, appointed by the speaker of the House of Representatives; and

~~(tr)t} ~~one}~~an individual who is a current or former senator from the Senate or has experience or expertise with the legislative process,~~ appointed by the president of the Senate.

(3) (a) A member appointed under Subsections (2)(m) through ~~(tr)t}~~ shall serve a four-year term.

(b) A member appointed to serve a four-year term is eligible for reappointment.

(4) When a vacancy occurs in the membership of the commission for any reason, the replacement shall be appointed by the applicable appointing authority for the remainder of the unexpired term of the original appointment.

(5) Except as otherwise provided in Subsection (5), a member may not receive compensation for the member's service but may receive per diem and reimbursement for travel expenses incurred as a member at the rates established by:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance according to Sections 63A-3-106 and

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63A-3-107.

(6) A member may not receive per diem or reimbursement for travel expenses under Subsection (5) if the member is being paid by a governmental entity while performing the member's service on the commission.

Section 8. Section **63M-7-803** is enacted to read:

63M-7-803. Chair and vice chair -- Procedure -- Subcommittees.

(1) (a) Except as provided in Subsection (1)(b), the governor shall appoint, with the advice and consent of the Senate, a chair from among the membership of the commission.

(b) A member who is a legislator may not be appointed as the chair of the commission.

(c) The chair of the commission shall serve a two-year term.

(2) (a) The members of the commission shall elect a vice chair from among the membership of the commission.

(b) The vice chair of the commission shall serve a two-year term.

(c) A member who is a legislator may not be elected as the vice chair of the commission.

(3) (a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

(4) The commission shall meet quarterly or more frequently as determined necessary by the chair.

(5) The commission shall establish:

(a) a subcommittee focused on domestic violence that is co-chaired by:

(i) the executive director of the state domestic violence coalition for this state or the executive director's designee; and

(ii) the executive director of the tribal coalition for this state or the executive director's designee;

(b) a subcommittee focused on rape and sexual assault that is co-chaired by:

(i) the executive director of the state sexual assault coalition for this state or the executive director's designee; and

(ii) the executive director of the tribal coalition for this state or the executive director's designee;

(c) a subcommittee focused on child abuse that is chaired by the chair of the Children's

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Justice Center Standing Committee or the chair's designee;

(d) a subcommittee focused on multicultural communities with distinct victimization issues that is chaired by the director of Division of Multicultural Affairs or the director's designee; and

(e) any other subcommittee as needed to assist the commission in accomplishing the duties of the commission, including an executive subcommittee.

(6) Except as otherwise provided in Subsection (5), the commission may:

(a) appoint to a subcommittee any member of the commission or any other individual with subject-matter expertise that is relevant to a subcommittee's focus and purpose;

(b) appoint the chair of any subcommittee; and

(c) establish the focus and purpose of a subcommittee.

Section 9. Section **63M-7-804** is enacted to read:

63M-7-804. Duties of the commission -- Report.

(1) The commission shall, in partnership with state agencies and organizations, including the Children's Justice Center Program, the Utah Office for Victims of Crime, the Utah Council on Victims of Crime, and the Division of Child and Family Services:

(a) review and assess the duties and practices of the State Commission on Criminal and Juvenile Justice regarding services and criminal justice policies pertaining to victims;

(b) encourage and facilitate the development and coordination of trauma-informed services for crime victims throughout the state;

(c) encourage and foster public and private partnerships for the purpose of:

(i) assessing needs for crime victim services throughout the state;

(ii) developing crime victim services and resources throughout the state; and

(iii) coordinating crime victim services and resources throughout the state;

(d) generate unity for ongoing efforts to reduce and eliminate the impact of crime on victims through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(e) recommend and support the creation, dissemination, and implementation of statewide policies and plans to address crimes, including domestic violence, sexual violence, child abuse, and driving under the influence of drugs and alcohol;

(f) develop a systematic process and clearinghouse for the collection and dissemination

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of data on domestic violence and sexual violence;

(g) collect information on statewide funding for crime victim services and prevention efforts, including the sources, disbursement, and outcomes of statewide funding for crime victim services and prevention efforts;

(h) consider recommendations from any subcommittee of the commission; and

(i) make recommendations regarding:

(i) the duties and practices of the State Commission on Criminal and Juvenile Justice to ensure that:

(A) crime victims are a vital part of the criminal justice system of the state;

(B) all crime victims and witnesses are treated with dignity, respect, courtesy, and sensitivity; and

(C) the rights of crime victims and witnesses are honored and protected by law in a manner no less vigorous than protections afforded to criminal defendants; and

(ii) statewide funding for crime victim services and prevention efforts.

(2) The commission may recommend to the State Commission on Criminal and Juvenile Justice the services to be funded by the Victim Services Restricted Account.

(3) The commission shall report the commission's recommendations annually to the State Commission on Criminal and Juvenile Justice, the governor, the Judicial Council, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Health and Human Services Interim Committee, the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee.

(4) When taking an action or making a recommendation, the commission shall respect that a state agency is bound to follow state law and may have duties or responsibilities imposed by state law.

Section 10. Section **63M-7-805** is enacted to read:

63M-7-805. Staff -- Contract with third party.

(1) The State Commission on Criminal and Juvenile Justice shall provide staff to the commission and to any subcommittee of the commission.

(2) The commission may contract with a third party to assist the commission with reviewing and providing recommendations on:

(a) the best practices and policies for crime victim services;

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(b) the structure and membership of the commission;

(c) the purpose and duties of the commission, including any overlapping duties that the commission has with another state office, board, or commission;

(d) the funding for crime victim services in this state, including the need for funding, the management of state funds for crime victim services, and the implementation of accountability and performance measures; and

(e) any other issue related to the duties of the commission that the third party may provide assistance.

Section 11. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office - State Commission on Criminal and Juvenile Justice

<u>From General Fund</u>	<u>550,000</u>
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Schedule of Programs:

<u>Utah Victim Services Commission</u>	<u>550,000</u>
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The Legislature intends that the State Commission on Criminal and Juvenile Justice use the funds appropriated under this item to staff the Utah Victims Services Commission.

ITEM 2

To Governor's Office - State Commission on Criminal and Juvenile Justice

<u>From General Fund, One-time</u>	<u>500,000</u>
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Schedule of Programs:

<u>Utah Victim Services Commission</u>	<u>500,000</u>
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The Legislature intends that the Utah Victim Services Commission use funds appropriated under this item to hire a third party to assist the Utah Victim Services Commission in accordance with Subsection 63M-7-805(2).