

HB0297S01 compared with HB0297

~~{deleted text}~~ shows text that was in HB0297 but was deleted in HB0297S01.

inserted text shows text that was not in HB0297 but was inserted into HB0297S01.

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Representative Kera Birkeland proposes the following substitute bill:

VICTIM SERVICES AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to certain victims of sexual crimes including an abortion based upon rape or incest.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ~~{~~ → ~~requires the Department of Health and Human Services (department) to ensure timely access to emergency contraception for a victim of sexual assault;~~
- { ▶ provides that a person operating a sexual assault hotline service may, when applicable, provide a victim of sexual assault with information on how to access free emergency contraception and other services;
- ▶ requires the ~~{department}~~ Department of Health and Human Services to provide to

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certain entities information about how a victim of sexual assault may access emergency contraception and other services;

- ▶ requires a law enforcement officer's annual training to include training on ~~{trauma-informed}~~ responses to sexual trauma and investigations of sexual assault and sexual abuse;
- ▶ establishes law enforcement agency policy, public information, and reporting requirements concerning sexual assault offenses and investigations;
- ▶ requires the State Commission on Criminal and Juvenile Justice (commission) to receive, compile, and publish data concerning sexual assault offenses;
- ▶ provides that a law enforcement agency not in compliance with sexual assault offense reporting requirements may not receive grants from the commission;
- ▶ provides for a victim reparation award:
 - for mental health counseling for a victim of sexual assault; and
 - for a victim of sexual assault who becomes pregnant from the sexual assault, health care for the victim during the duration of the victim's pregnancy and for the victim and the victim's child for one year after the child is born;
- ▶ restricts an abortion based upon rape or incest to a pregnancy in which the unborn child has not reached 18 weeks gestational age;
- ▶ amends verification and reporting procedures for abortions based upon rape or incest;
- ▶ requires the department to receive, compile, and create a report concerning certain information regarding abortions based upon rape or incest and provide the report to the Health and Human Services Interim Committee; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- ▶ to Department of Public Safety - Peace Officer Standards and Training, as a One-time appropriation:
 - from the General Fund, One-time, \$10,000.

Other Special Clauses:

None

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Utah Code Sections Affected:

AMENDS:

- ~~{~~ ~~26-21b-201~~, as last amended by Laws of Utah 2010, Chapter 140
- ~~}~~ 53-6-202, as last amended by Laws of Utah 2021, First Special Session, Chapter 1
- 53-10-908, as renumbered and amended by Laws of Utah 2022, Chapter 430
- 63A-16-1002, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
Coordination Clause, Laws of Utah 2022, Chapter 390
- 63M-7-204, as last amended by Laws of Utah 2022, Chapter 187
- 63M-7-218, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
Coordination Clause, Laws of Utah 2022, Chapter 390
- 63M-7-511, as last amended by Laws of Utah 2020, Chapter 149
- 76-7-302, as last amended by Laws of Utah 2022, Chapter 335
- 76-7-302.5, as enacted by Laws of Utah 2019, Chapter 208
- 76-7-313, as last amended by Laws of Utah 2019, Chapters 124, 208
- 76-7a-101, as last amended by Laws of Utah 2021, Chapter 262
- 76-7a-201, as enacted by Laws of Utah 2020, Chapter 279

ENACTS:

- 26-21b-202, Utah Code Annotated 1953
- 53-22-101, Utah Code Annotated 1953
- 53-22-102, Utah Code Annotated 1953
- 53-22-103, Utah Code Annotated 1953

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

Section 1. Section ~~{~~26-21b-201~~}~~ 26-21b-202 is ~~{~~amended to read:

~~26-21b-201. Emergency contraception services for a victim of sexual assault --
Department to ensure access -- Rulemaking authority.~~

~~(1) Except as provided in Subsection (2), a designated facility shall provide the
following services to a victim of sexual assault:~~

~~(a) provide the victim with written and oral medical information regarding emergency
contraception that is unbiased, accurate, and generally accepted by the medical community as
being scientifically valid;~~

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- ~~—— (b) orally inform the victim of sexual assault that the victim may obtain emergency contraception at the designated facility;~~
- ~~—— (c) offer a complete regimen of emergency contraception to a victim of sexual assault;~~
- ~~—— (d) provide, at the designated facility, emergency contraception to the victim of sexual assault upon her request;~~
- ~~—— (e) maintain a protocol, prepared by a physician, for the administration of emergency contraception at the designated facility to a victim of sexual assault; and~~
- ~~—— (f) develop and implement a written policy to ensure that a person is present at the designated facility, or on-call, who:~~
 - ~~—— (i) has authority to dispense or prescribe emergency contraception, independently, or under the protocol described in Subsection (1)(e), to a victim of sexual assault; and~~
 - ~~—— (ii) is trained to comply with the requirements of this section.~~
- ~~—— (2) A freestanding urgent care center is exempt from the requirements of Subsection (1) if:~~
 - ~~—— (a) there is a general acute hospital or a critical access hospital within 30 miles of the freestanding urgent care center; and~~
 - ~~—— (b) an employee of the freestanding urgent care center provides the victim with:~~
 - ~~—— (i) written and oral medical information regarding emergency contraception that is unbiased, accurate, and generally accepted by the medical community as being scientifically valid; and~~
 - ~~—— (ii) the name and address of the general acute hospital or critical access hospital described in Subsection (2)(a).~~
- ~~—— (3) A practitioner shall comply with Subsection (4) with regard to a person who is a victim of sexual assault, if the person presents to receive medical care, or receives medical care, from the practitioner at a location that is not a designated facility.~~
- ~~—— (4) A practitioner described in Subsection (3) shall:~~
 - ~~—— (a) provide the victim with written and oral medical information regarding emergency contraception that is unbiased, accurate, and generally accepted by the medical community as being scientifically valid; and~~
 - ~~—— (b) (i) (A) orally inform the victim of sexual assault that the victim may obtain emergency contraception at the facility where the practitioner is located; and~~

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~~—— (B) provide emergency contraception to the victim of sexual assault, if she requests emergency contraception; or~~

~~—— (ii) inform the victim of sexual assault of the nearest location where she may obtain emergency contraception.~~

~~—— (5) (a) The department shall ensure that a victim of sexual assault has access to free emergency contraception.~~

~~—— (b) In providing emergency contraception in accordance with Subsection (5)(a), the department shall ensure that a victim of sexual assault has access to emergency contraception in a timely manner so that the emergency contraception is medically effective.~~

~~—— (c) The department may not provide emergency contraception to a victim of sexual assault more than 72 hours after the sexual assault.~~

~~—— (d) The department may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this Subsection (5).~~

~~—— Section 2. Section ~~26-21b-202~~ is enacted to read:~~

~~}; enacted to read:~~

26-21b-202. Sexual assault hotline service -- Emergency contraception access.

(1) As used in this section, "sexual assault hotline service" means a telephone hotline, online chat hotline, or similar method of communication that provides information or counseling services for a victim of sexual assault.

(2) A person who operates a sexual assault hotline service available to a resident of this state shall create and maintain a policy that encourages the sexual assault hotline service to provide, when applicable, a victim of sexual assault with information on how to access:

- (a) free emergency contraception;
- (b) law enforcement; and
- (c) medical and mental health services.

(3) The department shall ~~};~~

~~—— (a) ensure, in accordance with Subsection ~~26-21b-201(6)~~, that a victim of sexual assault has access to free emergency contraception; and~~

~~—— (b) ~~};~~ provide information about how a victim of sexual assault may access free emergency contraception and other medical and mental health services to:~~

~~(~~};~~) a victims of sexual assault;~~

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(~~iii~~b) sexual assault hotline services that are available to residents of this state; and
(~~iii~~c) other providers who provide sexual assault support services to victims of
sexual assault in this state.

(4) The department may adopt rules in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, to carry out the provisions of Subsection (3).

Section ~~3~~2. Section **53-6-202** is amended to read:

53-6-202. Basic training course -- Completion required -- Annual training --

Prohibition from exercising powers -- Reinstatement.

(1) (a) The director shall:

(i) (A) suggest and prepare subject material; and

(B) schedule instructors for basic training courses; or

(ii) review the material and instructor choices submitted by a certified academy.

(b) The subject material, instructors, and schedules shall be approved or disapproved by a majority vote of the council.

(2) The materials shall be reviewed and approved by the council on or before July 1st of each year and may from time to time be changed or amended by majority vote of the council.

(3) The basic training in a certified academy:

(a) shall be appropriate for the basic training of peace officers in the techniques of law enforcement in the discretion of the director; and

(b) may not include the use of chokeholds, carotid restraints, or any act that impedes the breathing or circulation of blood likely to produce a loss of consciousness, as a valid method of restraint.

(4) (a) All peace officers shall satisfactorily complete the basic training course or the waiver process provided for in this chapter as well as annual certified training of not less than 40 hours as the director, with the advice and consent of the council, directs.

(b) A peace officer who fails to satisfactorily complete the annual training shall automatically be prohibited from exercising peace officer powers until any deficiency is made up.

(c) (i) Beginning July 1, 2021, the annual training shall include no less than 16 hours of training focused on mental health and other crisis intervention responses, arrest control, and de-escalation training.

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(ii) Standards for the training shall be determined by each law enforcement agency or department and approved by the director or designee.

(iii) Each law enforcement agency or department shall include a breakdown of the 16 hours within the annual audit submitted to the division.

(5) Beginning July 1, 2021, the director shall ensure that annual training covers intervention responses for mental illnesses, autism spectrum disorder, and other neurological and developmental disorders.

(6) Beginning July 1, 2023, the director shall ensure that annual training covers at least one hour of training on ~~{trauma-informed}~~ responses to sexual traumas and investigations of sexual assault and sexual abuse in accordance with Section 53-10-908.

Section ~~{4}~~3. Section **53-10-908** is amended to read:

53-10-908. Law enforcement -- Training -- Sexual assault, sexual abuse, and human trafficking.

(1) The department and the Utah Prosecution Council shall develop training in trauma-informed responses and investigations of sexual assault and sexual abuse, which include, but are not limited to, the following:

- (a) recognizing the symptoms of trauma;
- (b) understanding the impact of trauma on a victim;
- (c) responding to the needs and concerns of a victim of sexual assault or sexual abuse;
- (d) delivering services to victims of sexual assault or sexual abuse in a compassionate, sensitive, and nonjudgmental manner;
- (e) understanding cultural perceptions and common myths of sexual assault and sexual abuse; and
- (f) techniques of writing reports in accordance with Subsection (5).

(2) (a) ~~[The]~~ In accordance with Section 53-6-202, the department and the Utah Prosecution Council shall offer the training in Subsection (1) to all certified law enforcement officers in the state.

(b) The training for all law enforcement officers may be offered through an online course, developed by the department and the Utah Prosecution Council.

(3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer.

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(4) (a) The department and the Utah Prosecution Council shall develop and offer an advanced training course for officers who investigate cases of sexual assault or sexual abuse.

(b) The advanced training course shall include:

(i) all criteria listed in Subsection (1); and

(ii) interviewing techniques in accordance with the curriculum standards in Subsection

(5).

(5) The department shall consult with the Utah Prosecution Council to develop the specific training requirements of this section, including curriculum standards for report writing and response to sexual assault and sexual abuse, including trauma-informed and victim-centered interview techniques, which have been demonstrated to minimize retraumatizing victims.

(6) The Office of the Attorney General shall develop and offer training for law enforcement officers in investigating human trafficking offenses.

(7) The training described in Subsection (6) shall be offered to all law enforcement officers in the state by July 1, 2020.

(8) The training described in Subsection (6) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer, in conjunction with the training described in Subsection (1), beginning July 1, 2021.

(9) The Office of the Attorney General, the department, and the Utah Prosecution Council shall consult with one another to provide the training described in Subsection (6) jointly with the training described in Subsection (1) as reasonably practicable.

Section ~~53-4~~4. Section **53-22-101** is enacted to read:

CHAPTER 22. SEXUAL ASSAULT OFFENSE POLICY AND REPORTING REQUIREMENTS

53-22-101. Sexual assault offense policy and public information requirements for law enforcement agencies.

(1) (a) Beginning January 1, 2024, a law enforcement agency shall create and maintain a policy regarding the law enforcement agency's processes for handling sexual assault investigations.

(b) A policy described under Subsection (1)(a) shall include current best practices for handling sexual assault investigations, including:

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(i) ~~trauma-informed response~~ protocols and training on responses to sexual trauma;
(ii) emergency response procedures, including prompt contact with the victim and the preservation of evidence; and

(iii) referrals to sexual assault support services.

(c) A law enforcement agency shall publicly post on the law enforcement agency's website the policy described in Subsection (1)(a).

(2) Beginning January 1, 2024, a law enforcement agency shall create and publicly post on the law enforcement agency's website a guide for victims of sexual assault that includes:

(a) a description of the law enforcement agency's processes for handling sexual assault investigations;

(b) contact information for victims of sexual assault to obtain more information from the law enforcement agency; and

(c) referral information for sexual assault victim support services.

Section ~~6~~5. Section **53-22-102** is enacted to read:

53-22-102. Sexual assault offense reporting requirements for law enforcement agencies.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Sexual assault offense" means:

(i) rape, Section 76-5-402;

(ii) rape of a child, Section 76-5-402.1;

(iii) object rape, Section 76-5-402.2;

(iv) object rape of a child, Section 76-5-402.3;

(v) forcible sodomy, Section 76-5-403;

(vi) sodomy on a child, Section 76-6-403.1;

(vii) forcible sexual abuse, Section 76-5-404;

(viii) sexual abuse of a child, Section 76-5-404.1;

(ix) aggravated sexual abuse of a child, Section 76-5-404.3;

(x) aggravated sexual assault, Section 76-5-405; or

(xi) sexual battery, Section 76-9-702.1.

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(2) (a) Beginning January 1, 2024, a law enforcement agency shall annually, on or before April 30, submit a report to the commission for the previous calendar year containing the number of each type of sexual assault offense that:

(i) was reported to the law enforcement agency;

(ii) was investigated by a detective; and

(iii) was referred to a prosecutor for prosecution.

(b) A law enforcement agency shall:

(i) compile the report described in Subsection (2)(a) for each calendar year in the standardized format developed by the commission under Subsection (3); and

(ii) publicly post the information reported in Subsection (2)(a) on the law enforcement agency's website.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 6. Section 53-22-103 is enacted to read:

53-22-103. Exemption.

The provisions of this chapter do not apply to a law enforcement agency created under Section 41-3-104.

Section 7. Section **63A-16-1002** is amended to read:

63A-16-1002. Criminal justice database.

(1) The commission shall oversee the creation and management of a [~~Criminal Justice Database~~] criminal justice database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information

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in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 24-4-118, forfeiture reporting requirements;

(e) Section 41-6a-511, courts to collect and maintain data;

(f) Section 53-22-102, sexual assault offense reporting requirements for law

enforcement agencies;

~~(f)~~ (g) Section 63M-7-214, law enforcement agency grant reporting;

~~(g)~~ (h) Section 63M-7-216, prosecutorial data collection;

~~(h)~~ (i) Section 64-13-21, supervision of sentenced offenders placed in community;

~~(i)~~ (j) Section 64-13-25, standards for programs;

~~(j)~~ (k) Section 64-13-45, department reporting requirements;

~~(k)~~ (l) Section 64-13e-104, housing of state probationary inmates or state parole

inmates;

~~(l)~~ (m) Section 77-7-8.5, use of tactical groups;

~~(m)~~ (n) Section 77-20-103, release data requirements;

~~(n)~~ (o) Section 77-22-2.5, court orders for criminal investigations;

~~(o)~~ (p) Section 78A-2-109.5, court demographics reporting; and

~~(p)~~ (q) any other statutes which require the collection of specific data and the

reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

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(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023.

Section 8. Section **63M-7-204** is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and

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juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 62A-15-103(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

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(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209;

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 62A-15-103(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 62A-15-103(2)(n) by each mental health or substance use treatment program; ~~and~~

(y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees[-]; and

(z) receive, compile, and publish the data provided under Section 53-22-102 on the commission's website.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

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Section 9. Section **63M-7-218** is amended to read:

63M-7-218. State grant requirements.

Beginning July 1, 2023, the commission may not award any grant of state funds to any entity subject to, and not in compliance with, the reporting requirements in Subsections 63A-16-1002(5)(a) through ~~[(p)]~~ (p).

Section 10. Section **63M-7-511** is amended to read:

63M-7-511. 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

(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) (A) is set forth in a mental health treatment plan that is approved before any payment is made by a reparations officer; and

~~[(ii)]~~ (B) qualifies within any further rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) is for a victim of sexual assault;

(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

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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[-]; and

(j) for a victim of sexual assault who becomes pregnant from the sexual assault, health care:

(i) for the victim during the duration of the victim's pregnancy if the health care is related to or resulting from the sexual assault or the pregnancy; and

(ii) for the victim and the victim's child for one year after the day on which the victim's child is born.

Section 11. Section **76-7-302** is amended to read:

76-7-302. Circumstances under which abortion authorized.

(1) As used in this section, "viable" means that the unborn child has reached a stage of fetal development when the unborn child is potentially able to live outside the womb, as determined by the attending physician to a reasonable degree of medical certainty.

(2) An abortion may be performed in this state only by a physician.

(3) An abortion may be performed in this state only under the following circumstances:

(a) the unborn child is not viable; or

(b) the unborn child is viable, if:

(i) the abortion is necessary to avert:

(A) the death of the woman on whom the abortion is performed; or

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(B) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(ii) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus:

(A) has a defect that is uniformly diagnosable and uniformly lethal; or

(B) has a severe brain abnormality that is uniformly diagnosable; or

(iii) (A) the unborn child has not reached 18 weeks gestational age and the woman is pregnant as a result of:

(I) rape, as described in Section 76-5-402;

(II) rape of a child, as described in Section 76-5-402.1; or

(III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; and

(B) before the abortion is performed, the physician who performs the abortion:

(I) verifies that the incident described in Subsection (3)(b)(iii)(A) has been reported to law enforcement ~~{ as described in Subsection (5) }~~; and

(II) if applicable, complies with the requirements of Section 80-2-602.

(4) An abortion may be performed only in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

~~{ (5) (a) A verification under Subsection (3)(b)(iii)(B)(I) requires the woman receiving the abortion to:~~

~~—— (i) provide to the physician performing the abortion a copy of the case report provided by the applicable law enforcement agency; or~~

~~—— (ii) sign a certification that the woman reported to law enforcement the incident described under Subsection (3)(b)(iii)(A):~~

~~‡ (b) 5) A physician who performs an abortion under Subsection (3)(b)(iii) shall:~~

~~(i) a) maintain an accurate record as to ~~{ whether }~~ the manner in which the abortion was verified; physician conducted the verification under Subsection ~~(5) 3) (a) b) (i) or (ii) iii) (B) (I)~~; and~~

~~(ii) b) report the information described in Subsection (5) (b) (i) a) to the department in accordance with Section 76-7-313.~~

Section 12. Section **76-7-302.5** is amended to read:

76-7-302.5. Circumstances under which abortion prohibited.

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Notwithstanding any other provision of this part, a person may not perform or attempt to perform an abortion after the unborn child reaches 18 weeks gestational age unless the abortion is permissible for a reason described in Subsection 76-7-302(3)(b)(i) or (ii).

Section 13. Section **76-7-313** is amended to read:

76-7-313. Department's enforcement responsibility -- Physician's report to department -- Reporting.

(1) In order for the department to maintain necessary statistical information and ensure enforcement of the provisions of this part:

(a) any physician performing an abortion must obtain and record in writing:

(i) the age, marital status, and county of residence of the woman on whom the abortion was performed;

(ii) the number of previous abortions performed on the woman described in Subsection (1)(a)(i);

(iii) the hospital or other facility where the abortion was performed;

(iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;

(v) the pathological description of the unborn child;

(vi) the given gestational age of the unborn child;

(vii) the date the abortion was performed;

(viii) the measurements of the unborn child, if possible to ascertain;

(ix) if applicable, the information obtained under Subsection 76-7-302(5) or 76-7a-201(6); and

~~[(ix)]~~ (x) the medical procedure used to abort the unborn child; and

(b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Each physician who performs an abortion shall provide the following to the department within 30 days after the day on which the abortion is performed:

(a) the information described in Subsection (1);

(b) a copy of the pathologist's report described in Section 76-7-309;

(c) an affidavit:

(i) indicating whether the required consent was obtained pursuant to Sections 76-7-305 and 76-7-305.5;

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(ii) described in Subsection (3), if applicable; and

(iii) indicating whether at the time the physician performed the abortion, the physician had any knowledge that the pregnant woman sought the abortion solely because the unborn child had or may have had Down syndrome; and

(d) a certificate indicating:

(i) whether the unborn child was or was not viable, as defined in Subsection 76-7-302(1), at the time of the abortion;

(ii) whether the unborn child was older than 18 weeks gestational age at the time of the abortion; and

(iii) if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than 18 weeks gestational age at the time of the abortion, the reason for the abortion.

(3) If the information module or the address to the website is not provided to a pregnant woman, the physician who performs the abortion on the woman shall, within 10 days after the day on which the abortion is performed, provide to the department an affidavit that:

(a) specifies the information that was not provided to the woman; and

(b) states the reason that the information was not provided to the woman.

(4) All information supplied to the department shall be confidential and privileged pursuant to Title 26, Chapter 25, Confidential Information Release.

(5) The department shall pursue all administrative and legal remedies when the department determines that a physician or a facility has not complied with the provisions of this part.

(6) (a) The department shall receive, compile, and create a report outlining the data provided under Subsection (1)(a)(ix).

(b) ~~{Before November 30, 2024, and}~~ ~~Annually on or~~ before November 30 ~~{of every even-numbered year thereafter}~~, the department shall provide the report described in Subsection (6)(a) to the Health and Human Services Interim Committee.

Section 14. Section **76-7a-101** is amended to read:

76-7a-101. Definitions.

As used in this chapter:

(1) (a) "Abortion" means:

(i) the intentional termination or attempted termination of human pregnancy after

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implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;

(ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or

(iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II abortion clinic licensed by the state.

(3) "Department" means the Department of Health.

(4) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

(5) "Hospital" means:

(a) a general hospital licensed by the department; or

(b) a clinic or other medical facility to the extent the clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to a pregnant woman and an unborn child as would be provided for the particular medical procedure undertaken by a general hospital licensed by the department.

~~[(6) "Incest" means the same as that term is defined in Section 80-1-102.]~~

~~[(7)]~~ (6) "Medical emergency" means a condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the

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immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

~~[(8)]~~ (7) "Physician" means:

- (a) a medical doctor licensed to practice medicine and surgery in the state;
- (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or
- (c) a physician employed by the federal government who has qualifications similar to an individual described in Subsection ~~[(8)(a)]~~ ~~[(7)(a)]~~ or (b).

~~[(9)]~~ "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.]

~~[(10)]~~ (8) (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

- (i) Down syndrome;
- (ii) spina bifida;
- (iii) cerebral palsy; or
- (iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Section 15. Section ~~76-7a-201~~ is amended to read:

76-7a-201. Abortion prohibition -- Exceptions -- Penalties.

(1) An abortion may be performed in this state only under the following circumstances:

- (a) the abortion is necessary to avert:
 - (i) the death of the woman on whom the abortion is performed; or
 - (ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(b) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus:

- (i) has a defect that is uniformly diagnosable and uniformly lethal; or
- (ii) has a severe brain abnormality that is uniformly diagnosable; or
- (c) (i) the unborn child has not reached 18 weeks gestational age and the woman is pregnant as a result of:

(A) rape, as described in Section 76-5-402;

(B) rape of a child, as described in Section 76-5-402.1; or

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(C) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; and

(ii) before the abortion is performed, the physician who performs the abortion:

(A) verifies that the incident described in Subsection (1)(c)(i) has been reported to law enforcement ~~{ as described in Subsection (6) }~~; and

(B) if applicable, complies with requirements related to reporting suspicions of or known child abuse.

(2) An abortion may be performed only:

(a) by a physician; and

(b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

(3) A person who performs an abortion in violation of this section is guilty of a second degree felony.

(4) In addition to the penalty described in Subsection (3), the department may take appropriate corrective action against an abortion clinic, including revoking the abortion clinic's license, if a violation of this chapter occurs at the abortion clinic.

(5) The department shall report a physician's violation of any provision of this section to the state entity that regulates the licensing of a physician.

~~{ (6) (a) A verification under Subsection (1)(c)(ii)(A) requires that the woman receiving the abortion to:~~

~~—— (i) provide to the physician performing the abortion a copy of the case report provided by the applicable law enforcement agency; or~~

~~—— (ii) sign a certification that the woman reported to law enforcement the incident described under Subsection (1)(c)(i).~~

~~{ (b) 6} A physician who performs an abortion under Subsection (1)(c) shall:~~

~~{ (i) a} maintain an accurate record as to ~~{ whether }~~ the manner in which the {abortion was verified; physician conducted the verification} under Subsection ~~{ (6) 1 } (a) c) (i) ii } or { (ii) A };~~ and~~

~~{ (ii) b} report the information described in Subsection (6) ~~{ (b) (i) a }~~ to the department in accordance with Section 76-7-313.~~

Section 16. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1,

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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 Department of Public Safety - Peace Officer Standards and Training

From General Fund, One-time 10,000

Schedule of Programs:

Peace Officer Standards and Training 10,000

The Legislature intends that:

(1) the appropriation under this item be used for the training program described in Subsections 53-6-202(6) and 53-10-908(2) of this bill; and

(2) under Section 63J-1-603, the One-time appropriation provided under this item not lapse at the close of fiscal year 2024 and the use of any nonlapsing funds is limited to the purposes described in Subsection (1) of this item.