

**Senator Michael K. McKell** proposes the following substitute bill:

**CRIME VICTIM AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Tyler Clancy**

Senate Sponsor: Michael K. McKell

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**LONG TITLE**

**General Description:**

This bill amends provisions related to victims of crime.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the Utah Office for Victims of Crime to provide a law enforcement agency with educational materials regarding sexual assault victims;
- ▶ amends the duties of the Utah Council on Victims of Crime;
- ▶ amends the duties of the Utah Victim Services Commission;
- ▶ creates a victim rights committee in each judicial district of the state;
- ▶ establishes the membership of a victim rights committee;
- ▶ creates a process for submitting a complaint alleging a violation of a victim's right;
- ▶ clarifies the relief that a victim may seek from a court for a violation of a victim's right;
- ▶ clarifies that a defendant may not seek relief from a court for a violation of victim's rights;
- ▶ requires a prosecuting attorney to consult with, and receive a request from, a victim before a criminal action involving a domestic violence offense is transferred from



26 the justice court to the district court;

27       ▶ repeals a statute on district victims' rights committees; and

28       ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30       None

31 **Other Special Clauses:**

32       This bill provides a coordination clause.

33 **Utah Code Sections Affected:**

34 AMENDS:

35       **63M-7-502**, as last amended by Laws of Utah 2022, Chapters 148, 185 and 430

36       **63M-7-603**, as last amended by Laws of Utah 2021, Chapter 172

37       **63M-7-904**, as enacted by Laws of Utah 2023, Chapter 150

38       **77-38-11**, as last amended by Laws of Utah 2010, Chapter 331

39       **78A-7-106**, as last amended by Laws of Utah 2023, Chapter 34

40 ENACTS:

41       **63M-7-506.5**, Utah Code Annotated 1953

42       **63M-7-1001**, Utah Code Annotated 1953

43       **63M-7-1002**, Utah Code Annotated 1953

44       **63M-7-1003**, Utah Code Annotated 1953

45 REPEALS:

46       **77-37-5**, as last amended by Laws of Utah 2023, Chapter 237

47 **Utah Code Sections Affected By Coordination Clause:**

48       **63M-7-904**, as enacted by Laws of Utah 2023, Chapter 150



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

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

52       **63M-7-502. Definitions.**

53       As used in this part:

54       (1) "Accomplice" means an individual who has engaged in criminal conduct as  
55 described in Section **76-2-202**.

56       (2) "Advocacy services provider" means the same as that term is defined in Section

57 77-38-403.

58 (3) "Board" means the Crime Victim Reparations and Assistance Board created under  
59 Section 63M-7-504.

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

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

63 (a) a victim;

64 (b) a dependent of a deceased victim; or

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

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

67 (7) "Collateral source" means any source of benefits or advantages for economic loss  
68 otherwise reparable under this part that the victim or claimant has received, or that is readily  
69 available to the victim from:

70 (a) the offender;

71 (b) the insurance of the offender or the victim;

72 (c) the United States government or any of its agencies, a state or any of its political  
73 subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory  
74 state-funded programs;

75 (d) social security, Medicare, and Medicaid;

76 (e) state-required temporary nonoccupational income replacement insurance or  
77 disability income insurance;

78 (f) workers' compensation;

79 (g) wage continuation programs of any employer;

80 (h) proceeds of a contract of insurance payable to the victim for the loss the victim  
81 sustained because of the criminally injurious conduct;

82 (i) a contract providing prepaid hospital and other health care services or benefits for  
83 disability; or

84 (j) veteran's benefits, including veteran's hospitalization benefits.

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

87 (9) (a) "Criminally injurious conduct" other than acts of war declared or not declared

88 means conduct that:

- 89 (i) is or would be subject to prosecution in this state under Section 76-1-201;
- 90 (ii) occurs or is attempted;
- 91 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
- 92 (iv) is punishable by fine, imprisonment, or death if the individual engaging in the
- 93 conduct possessed the capacity to commit the conduct; and

94 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,

95 aircraft, or water craft, unless the conduct is:

- 96 (A) intended to cause bodily injury or death;
- 97 (B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or
- 98 (C) chargeable as an offense for driving under the influence of alcohol or drugs.

99 (b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and

100 other conduct leading to the psychological injury of an individual resulting from living in a

101 setting that involves a bigamous relationship.

102 (10) (a) "Dependent" means a natural person to whom the victim is wholly or partially

103 legally responsible for care or support.

104 (b) "Dependent" includes a child of the victim born after the victim's death.

105 (11) "Dependent's economic loss" means loss after the victim's death of contributions

106 of things of economic value to the victim's dependent, not including services the dependent

107 would have received from the victim if the victim had not suffered the fatal injury, less

108 expenses of the dependent avoided by reason of victim's death.

109 (12) "Dependent's replacement services loss" means loss reasonably and necessarily

110 incurred by the dependent after the victim's death in obtaining services in lieu of those the

111 decedent would have performed for the victim's benefit if the victim had not suffered the fatal

112 injury, less expenses of the dependent avoided by reason of the victim's death and not

113 subtracted in calculating the dependent's economic loss.

114 (13) "Director" means the director of the office.

115 (14) "Disposition" means the sentencing or determination of penalty or punishment to

116 be imposed upon an individual:

- 117 (a) convicted of a crime;
- 118 (b) found delinquent; or

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

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

124 (b) "Economic loss" includes economic detriment even if caused by pain and suffering  
125 or physical impairment.

126 (c) "Economic loss" does not include noneconomic detriment.

127 (16) "Elderly victim" means an individual who is 60 years old or older and who is a  
128 victim.

129 (17) "Fraudulent claim" means a filed reparations based on material misrepresentation  
130 of fact and intended to deceive the reparations staff for the purpose of obtaining reparation  
131 funds for which the claimant is not eligible.

132 (18) "Fund" means the Crime Victim Reparations Fund created in Section [63M-7-526](#).

133 (19) (a) "Interpersonal violence" means an act involving violence, physical harm, or a  
134 threat of violence or physical harm, that is committed by an individual who is or has been in a  
135 domestic, dating, sexual, or intimate relationship with the victim.

136 (b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act  
137 described in Subsection (19)(a).

138 (20) "Law enforcement agency" means a public or private agency having general police  
139 power and charged with making arrests in connection with enforcement of the criminal statutes  
140 and ordinances of this state or any political subdivision of this state.

141 [~~20~~] (21) "Law enforcement officer" means the same as that term is defined in  
142 Section [53-13-103](#).

143 [~~21~~] (22) (a) "Medical examination" means a physical examination necessary to  
144 document criminally injurious conduct.

145 (b) "Medical examination" does not include mental health evaluations for the  
146 prosecution and investigation of a crime.

147 [~~22~~] (23) "Mental health counseling" means outpatient and inpatient counseling  
148 necessitated as a result of criminally injurious conduct, is subject to rules made by the board in  
149 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

150           ~~[(23)]~~ (24) "Misconduct" means conduct by the victim that was attributable to the  
151 injury or death of the victim as provided by rules made by the board in accordance with Title  
152 63G, Chapter 3, Utah Administrative Rulemaking Act.

153           ~~[(24)]~~ (25) "Noneconomic detriment" means pain, suffering, inconvenience, physical  
154 impairment, and other nonpecuniary damage, except as provided in this part.

155           ~~[(25)]~~ (26) "Nongovernment organization victim advocate" means the same as that  
156 term is defined in Section [77-38-403](#).

157           ~~[(26)]~~ (27) "Pecuniary loss" does not include loss attributable to pain and suffering  
158 except as otherwise provided in this part.

159           ~~[(27)]~~ (28) "Offender" means an individual who has violated Title 76, Utah Criminal  
160 Code, through criminally injurious conduct regardless of whether the individual is arrested,  
161 prosecuted, or convicted.

162           ~~[(28)]~~ (29) "Offense" means a violation of Title 76, Utah Criminal Code.

163           ~~[(29)]~~ (30) "Office" means the director, the reparations and assistance officers, and any  
164 other staff employed for the purpose of carrying out the provisions of this part.

165           ~~[(30)]~~ (31) "Perpetrator" means the individual who actually participated in the  
166 criminally injurious conduct.

167           ~~[(31)]~~ (32) "Reparations award" means money or other benefits provided to a claimant  
168 or to another on behalf of a claimant after the day on which a reparations claim is approved by  
169 the office.

170           ~~[(32)]~~ (33) "Reparations claim" means a claimant's request or application made to the  
171 office for a reparations award.

172           ~~[(33)]~~ (34) (a) "Reparations officer" means an individual employed by the office to  
173 investigate claims of victims and award reparations under this part.

174           (b) "Reparations officer" includes the director when the director is acting as a  
175 reparations officer.

176           ~~[(34)]~~ (35) "Replacement service loss" means expenses reasonably and necessarily  
177 incurred in obtaining ordinary and necessary services in lieu of those the injured individual  
178 would have performed, not for income but the benefit of the injured individual or the injured  
179 individual's dependents if the injured individual had not been injured.

180           ~~[(35)]~~ (36) (a) "Representative" means the victim, immediate family member, legal

181 guardian, attorney, conservator, executor, or an heir of an individual.

182 (b) "Representative" does not include a service provider or collateral source.

183 [~~36~~] (37) "Restitution" means the same as that term is defined in Section 77-38b-102.

184 [~~37~~] (38) "Secondary victim" means an individual who is traumatically affected by  
185 the criminally injurious conduct subject to rules made by the board in accordance with Title  
186 63G, Chapter 3, Utah Administrative Rulemaking Act.

187 [~~38~~] (39) "Service provider" means an individual or agency who provides a service to  
188 a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

189 [~~39~~] (40) "Serious bodily injury" means the same as that term is defined in Section  
190 76-1-101.5.

191 [~~40~~] (41) "Sexual assault" means any criminal conduct described in Title 76, Chapter  
192 5, Part 4, Sexual Offenses.

193 [~~41~~] (42) "Strangulation" means any act involving the use of unlawful force or  
194 violence that:

195 (a) impedes breathing or the circulation of blood; and

196 (b) is likely to produce a loss of consciousness by:

197 (i) applying pressure to the neck or throat of an individual; or

198 (ii) obstructing the nose, mouth, or airway of an individual.

199 [~~42~~] (43) "Substantial bodily injury" means the same as that term is defined in  
200 Section 76-1-101.5.

201 [~~43~~] (44) (a) "Victim" means an individual who suffers bodily or psychological injury  
202 or death as a direct result of:

203 (i) criminally injurious conduct; or

204 (ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if  
205 the individual is a minor.

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

209 [~~44~~] (45) "Work loss" means loss of income from work the injured victim would  
210 have performed if the injured victim had not been injured and expenses reasonably incurred by  
211 the injured victim in obtaining services in lieu of those the injured victim would have

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

214 Section 2. Section **63M-7-506.5** is enacted to read:

215 **63M-7-506.5. Duties of the office.**

216 The office shall provide educational materials to a law enforcement agency to assist the  
217 law enforcement agency with informing a victim of a sexual assault of the victim's right to  
218 request testing of the victim and of the offender alleged to have committed the sexual assault as  
219 described in Section [53-10-802](#).

220 Section 3. Section **63M-7-603** is amended to read:

221 **63M-7-603. Duties of the council.**

222 (1) The council shall:

223 (a) make recommendations to the Legislature, the governor, and the Judicial Council

224 on the following:

225 (i) enforcing existing rights of victims of crime;

226 (ii) enhancing rights of victims of crime;

227 (iii) the role of victims of crime in the criminal justice system;

228 (iv) victim restitution;

229 (v) educating and training criminal justice professionals on the rights of victims of

230 crime; and

231 (vi) enhancing services to victims of crimes; and

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

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

234 ~~Rights Committee established in Section [77-37-5](#).]~~

235 (2) The council:

236 (a) shall advocate the adoption, repeal, or modification of laws or proposed legislation

237 in the interest of victims of crime;

238 (b) subject to court rules and the governor's approval, may advocate in appellate courts

239 on behalf of a victim of crime as described in Subsection [77-38-11\(2\)\(a\)\(ii\)](#); and

240 (c) may establish additional subcommittees to assist in accomplishing its duties~~;~~ and.

241 ~~[(d) shall select and appoint individuals in accordance with Section [77-37-5](#) to act as~~

242 ~~chairpersons of the judicial district victims' rights committees and provide assistance to the~~

243 ~~committees in their operations.]~~

244 *The following section is affected by a coordination clause at the end of this bill.*

245 Section 4. Section **63M-7-904** is amended to read:

246 **63M-7-904. Duties of the commission -- Report.**

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

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

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

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

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

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

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

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

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

264 (f) develop a systematic process and clearinghouse for the collection and dissemination  
265 of data on domestic violence and sexual violence;

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

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

270 (i) make recommendations regarding:

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

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

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

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

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

279 (2) The commission may:

280 (a) recommend to the Legislature the services to be funded by the Victim Services  
281 Restricted Account[-];

282 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
283 Rulemaking Act, regarding the process by which a victim, or a representative of a victim, may  
284 submit a complaint alleging a violation of the victim's rights; and

285 (c) review any action taken by a victim rights committee created in accordance with  
286 Section 63M-7-1002.

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

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

295 Section 5. Section 63M-7-1001 is enacted to read:

296 **Part 10. Victim Rights Committees**

297 **63M-7-1001. Definitions.**

298 As used in this part:

299 (1) "Committee" means a victim rights committee established in each judicial district  
300 as described in Section 63M-7-1002.

301 (2) "Victim Services Commission" means the Utah Victim Services Commission  
302 established in Section 63M-7-902.

303 (3) (a) "Criminal justice agency" means an agency that is directly involved in the  
304 apprehension, prosecution, incarceration, or supervision of an individual involved in criminal

305 conduct.

306 (b) "Criminal justice agency" includes:

307 (i) a law enforcement agency as defined in Section 63M-7-502;

308 (ii) a prosecuting agency;

309 (iii) the Department of Corrections created in Section 64-13-2; or

310 (iv) the Board of Pardons and Parole created in Section 77-27-2.

311 (4) "Member" means an individual appointed to a committee.

312 (5) "Representative of a victim" means the same as that term is defined in Section

313 77-38-2.

314 (6) (a) "Victim" means an individual against whom criminal conduct has allegedly

315 been committed.

316 (b) "Victim" does not include an individual who is an accomplice or codefendant to

317 criminal conduct.

318 (7) "Victim advocate" means the same as that term is defined in Section 77-37-403.

319 (8) "Victim's rights" means the rights afforded to a victim under Title 77, Chapter 37,

320 Victims' Rights, Title 77, Chapter 38, Crime Victims, and Utah Constitution, Article I, Section

321 28.

322 Section 6. Section **63M-7-1002** is enacted to read:

323 **63M-7-1002. Victim rights committee for each judicial district -- Members --**

324 **Terms.**

325 (1) There is created a victim rights committee in each judicial district of this state.

326 (2) The Victim Services Commission shall appoint a chair to serve on each committee.

327 (3) The chair shall appoint, with the Victim Services Commission's consent, the

328 following individuals to serve on each committee:

329 (a) a county or district attorney within the judicial district, or the county or district

330 attorney's designee;

331 (b) a municipal attorney within the judicial district, or the municipal attorney's

332 designee;

333 (c) a sheriff within the judicial district, or the sheriff's designee;

334 (d) a chief of police within the judicial district, or the chief of police's designee;

335 (e) a representative of the Division of Adult Probation and Parole within the

336 Department of Corrections;

337 (f) a victim advocate; and

338 (g) any other representative as appropriate.

339 (4) A member is:

340 (a) appointed to serve a four-year term; and

341 (b) eligible for reappointment.

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

344 (6) A member may not receive compensation or benefits for the member's service, but  
345 a member may receive per diem and travel expenses in accordance with:

346 (a) Section [63A-3-106](#);

347 (b) Section [63A-3-107](#); and

348 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
349 [63A-3-107](#).

350 Section 7. Section **63M-7-1003** is enacted to read:

351 **63M-7-1003. Complaint of violation of victim rights -- Criminal justice agency**  
352 **policy about complaints.**

353 (1) (a) When a committee receives a complaint, the committee shall review the  
354 complaint to determine whether the complaint alleges a violation of a victim's rights.

355 (b) If a complaint alleges a violation of a victim's rights in another judicial district, the  
356 committee shall forward the complaint to the judicial district where the violation allegedly  
357 occurred.

358 (2) (a) If the committee receives a complaint that does not allege a violation of a  
359 victim's rights, the committee shall send a letter to the victim, or the representative of a victim:

360 (i) explaining that the committee may only address a violation of the victim's rights;  
361 and

362 (ii) describing any other resources that may be available to the victim or the  
363 representative of the victim.

364 (b) The committee shall send the letter described in Subsection (2)(a) within 30 days  
365 after the day on which the committee receives the complaint.

366 (3) If the complaint does allege a violation of a victim's rights, the committee

367 §→ [coordinator] ←§ shall forward copy of the complaint to the person that is the subject of the  
368 complaint.

369 (4) The committee shall schedule a meeting for the committee to review the complaint  
370 as soon as practicable.

371 (5) If a criminal justice agency investigates a complaint regarding a violation of a  
372 victim's rights and the committee receives a complaint about the same violation, the criminal  
373 justice agency shall provide the criminal justice agency's investigative findings related to the  
374 complaint to the committee.

375 (6) After reviewing the complaint and any findings submitted by a criminal justice  
376 agency under Subsection (5), the committee may:

377 (a) inform the person of a victim's rights and the obligations required by law;

378 (b) refer the victim, or the representative of a victim, to other resources in the  
379 community; or

380 (c) inform the victim, or the representative of a victim, of the victim's rights and  
381 remedies described in Title 77, Chapter 37, Victims' Rights, Title 77, Chapter 38, Crime  
382 Victims, and Utah Constitution, Article I, Section 28.

383 (7) Within 30 days after the day on which the committee meeting is held, the chair of  
384 the committee shall send a letter to the victim, or the representative of a victim, describing any  
385 action taken by the committee.

386 (8) A criminal justice agency shall establish a policy for addressing a complaint  
387 alleging a violation of a victim's rights.

388 Section 8. Section **77-38-11** is amended to read:

389 **77-38-11. Enforcement -- Appellate review -- No right to money damages.**

390 (1) If a person acting under color of state law allegedly violates the rights of a victim  
391 described in this chapter, Chapter 37, Victims' Rights, or Utah Constitution, Article I, Section  
392 28, the victim, or a representative of a victim, may file a complaint with a victim rights  
393 committee as described in Section [63M-7-1003](#).

394 [(+)] (2) If a person acting under color of state law willfully or wantonly fails to  
395 perform duties so that the rights in this chapter are not provided, an action for injunctive relief,  
396 including prospective injunctive relief, may be brought against the individual and the  
397 governmental entity that employs the individual.

398           ~~[(2)]~~ (3) (a) The victim of a crime or representative of a victim of a crime~~[-including~~  
399 ~~any Victims' Rights Committee as defined in Section 77-37-5]~~ may:

- 400           (i) bring an action for declaratory relief or for a writ of mandamus defining or
- 401 enforcing the rights of victims and the obligations of government entities under this chapter;
- 402           (ii) petition to file an amicus brief in any court in any case affecting crime victims; and
- 403           (iii) after giving notice to the prosecution and the defense, seek an appropriate remedy
- 404 for a violation of a victim's right from the ~~[judge]~~ court assigned to the case involving the issue
- 405 ~~[as provided in Section 77-38-11]~~.

406           (b) Adverse rulings on these actions or on a motion or request brought by a victim of a  
407 crime or a representative of a victim of a crime may be appealed under the rules governing  
408 appellate actions, provided that an appeal may not constitute grounds for delaying any criminal  
409 or juvenile proceeding.

410           (c) An appellate court shall review all properly presented issues, including issues that  
411 are capable of repetition but would otherwise evade review.

412           ~~[(3)]~~ (4) (a) Upon a showing that the victim has not unduly delayed in seeking to  
413 protect the victim's right, and after hearing from the prosecution and the defense, the ~~[judge]~~  
414 court shall determine whether a right of the victim has been violated.

415           (b) If the ~~[judge]~~ court determines that a victim's right has been violated, the ~~[judge~~  
416 ~~shall proceed to]~~ the court shall:

417           (i) determine the appropriate remedy for the violation of the victim's right by hearing  
418 from the victim and the parties~~;~~ and considering all factors relevant to the issue~~[-and then~~  
419 ~~awarding]; and~~

420           (ii) award an appropriate remedy to the victim.

421           (5) (a) The court shall:

422           (i) reconsider any judicial decision or judgment affected by a violation of the victim's  
423 right; and

424           (ii) ~~[determine whether;]~~ upon affording the victim the right and further hearing from  
425 the prosecution and the defense, determine whether the decision or judgment would have been  
426 different.

427           (b) If the court's decision or judgment would have been different, the court shall enter  
428 the new different decision or judgment as the appropriate remedy.

429 (c) If necessary to protect the victim's right, [~~the new decision or judgment shall be~~  
430 ~~entered~~] the court shall enter the new decision or judgment nunc pro tunc to the time the first  
431 decision or judgment was reached.

432 (d) In no event shall the appropriate remedy be a new trial, damages, attorney fees, or  
433 costs.

434 [~~(e)~~] (6) (a) The appropriate remedy under Subsection (4) or (5) shall include only  
435 actions necessary to provide the victim the right to which the victim was entitled [~~and~~].

436 (b) The appropriate remedy under Subsection (4) or (5) may include reopening  
437 previously held proceedings.

438 (7) (a) Subject to Subsection [~~(3)(d)~~] (7)(c), the court may reopen a sentence or a  
439 previously entered guilty or no contest plea only if [~~doing so~~] reopening the sentence or plea:

440 (i) would not preclude continued prosecution or sentencing the defendant; and

441 (ii) would not otherwise permit the defendant to escape justice.

442 (b) [~~Any remedy shall be tailored~~] The court shall tailor a remedy to provide the victim  
443 with an appropriate remedy without violating any constitutional right of the defendant.

444 [~~(d)~~] (c) If the court sets aside a previously entered plea of guilty or no contest, and  
445 [~~thereafter~~] the continued prosecution of the charge is held to be prevented by the defendant's  
446 having been previously put in jeopardy, the order setting aside the plea is void and the plea is  
447 reinstated as of the date of [~~its~~] the plea's original entry.

448 [~~(e)~~] (d) The court may not award as a remedy the dismissal of any criminal charge.

449 [~~(f)~~] (e) The court may not award any remedy if the proceeding that the victim is  
450 challenging occurred more than 90 days before the day on which the victim filed an action  
451 alleging the violation of the right.

452 [~~(4)~~] (8) The failure to provide the rights in this chapter or [~~Title 77, Chapter 37,~~  
453 ~~Victims' Rights~~] Chapter 37, Victims' Rights, shall not constitute cause for a judgment against  
454 the state or any government entity, or any individual employed by the state or any government  
455 entity, for monetary damages, attorney fees, or the costs of exercising any rights under this  
456 chapter.

457 (9) A defendant convicted of an offense may not bring an action or complaint  
458 concerning a violation of this chapter or Chapter 37, Victims' Rights.

459 Section 9. Section **78A-7-106** is amended to read:

460           **78A-7-106. Jurisdiction.**

461           (1) (a) Except for an offense for which the district court has original jurisdiction under  
462 Subsection [78A-5-102\(8\)](#) or an offense for which the juvenile court has original jurisdiction  
463 under Subsection [78A-6-103\(1\)\(c\)](#), a justice court has original jurisdiction over class B and C  
464 misdemeanors, violation of ordinances, and infractions committed within the justice court's  
465 territorial jurisdiction by an individual who is 18 years old or older.

466           (b) A justice court has original jurisdiction over the following offenses committed  
467 within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

468           (i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver  
469 Licensing Act; and

470           (ii) class B and C misdemeanor and infraction violations of:

471           (A) Title 23A, Wildlife Resources Act;

472           (B) Title 41, Chapter 1a, Motor Vehicle Act;

473           (C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving  
474 Under the Influence and Reckless Driving;

475           (D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and  
476 Operators Act;

477           (E) Title 41, Chapter 22, Off-highway Vehicles;

478           (F) Title 73, Chapter 18, State Boating Act, except Section [73-18-12](#);

479           (G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

480           (H) Title 73, Chapter 18b, Water Safety; and

481           (I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators  
482 Act.

483           (2) Except for an offense for which the district court has exclusive jurisdiction under  
484 Section [78A-5-102.5](#) or an offense for which the juvenile court has exclusive jurisdiction under  
485 Section [78A-6-103.5](#), a justice court has original jurisdiction over the following offenses  
486 committed within the justice court's territorial jurisdiction by an individual who is 16 or 17  
487 years old:

488           (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver  
489 Licensing Act; and

490           (b) class B and C misdemeanor and infraction violations of:

- 491 (i) Title 23A, Wildlife Resources Act;
- 492 (ii) Title 41, Chapter 1a, Motor Vehicle Act;
- 493 (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
- 494 Under the Influence and Reckless Driving;
- 495 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
- 496 Operators Act;
- 497 (v) Title 41, Chapter 22, Off-highway Vehicles;
- 498 (vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section
- 499 [73-18-12](#);
- 500 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
- 501 (viii) Title 73, Chapter 18b, Water Safety; and
- 502 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
- 503 Operators Act.
- 504 (3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake,
- 505 or reservoir, whether natural or man-made.
- 506 (b) An offense is committed within the territorial jurisdiction of a justice court if:
- 507 (i) conduct constituting an element of the offense or a result constituting an element of
- 508 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
- 509 itself unlawful;
- 510 (ii) either an individual committing an offense or a victim of an offense is located
- 511 within the court's jurisdiction at the time the offense is committed;
- 512 (iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs
- 513 within the court's jurisdiction;
- 514 (iv) an individual commits any act constituting an element of an inchoate offense
- 515 within the court's jurisdiction, including an agreement in a conspiracy;
- 516 (v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another
- 517 individual in the planning or commission of an offense within the court's jurisdiction;
- 518 (vi) the investigation of the offense does not readily indicate in which court's
- 519 jurisdiction the offense occurred, and:
- 520 (A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
- 521 passing within the court's jurisdiction;

522 (B) the offense is committed on or in any body of water bordering on or within this  
523 state if the territorial limits of the justice court are adjacent to the body of water;

524 (C) an individual who commits theft exercises control over the affected property within  
525 the court's jurisdiction; or

526 (D) the offense is committed on or near the boundary of the court's jurisdiction;

527 (vii) the offense consists of an unlawful communication that was initiated or received  
528 within the court's jurisdiction; or

529 (viii) jurisdiction is otherwise specifically provided by law.

530 (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may  
531 transfer the case to the juvenile court for further proceedings if the justice court judge  
532 determines and the juvenile court concurs that the best interests of the defendant would be  
533 served by the continuing jurisdiction of the juvenile court.

534 (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,  
535 Small Claims Courts, if a defendant resides in or the debt arose within the territorial  
536 jurisdiction of the justice court.

537 (6) (a) As used in this Subsection (6), "domestic violence offense" means the same as  
538 that term is defined in Section 77-36-1.

539 (b) If a justice court has jurisdiction over a criminal action involving a domestic  
540 violence offense and the criminal action is set for trial, the prosecuting attorney or the  
541 defendant may file a notice of transfer in the justice court to transfer the criminal action from  
542 the justice court to the district court.

543 (c) If a notice of transfer is filed by the prosecuting attorney, the prosecuting attorney  
544 shall certify in the notice of transfer that:

545 (i) the prosecuting attorney, or a representative from the prosecuting attorney's office,  
546 has consulted with all alleged victims about transferring the criminal action to the district court;  
547 and

548 (ii) an alleged victim requested the transfer of the criminal action to the district court.

549 (d) The justice court shall transfer a criminal action to the district court if the justice  
550 court receives a notice of transfer from:

551 (i) the defendant as described in Subsection (6)(b); or

552 (ii) the prosecuting attorney as described in Subsection (6)(b) and the prosecuting

553 attorney's notice of intent complies with Subsection (6)(c).

554 [~~(c) If a justice court receives a notice of transfer from the prosecuting attorney or the~~  
555 ~~defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action~~  
556 ~~to the district court.]~~

557 Section 10. **Repealer.**

558 This bill repeals:

559 Section ~~77-37-5~~, **Remedies -- District Victims' Rights Committee.**

560 Section 11. **Effective date.**

561 This bill takes effect on May 1, 2024.

562 Section 12. **Coordinating H.B. 308 with H.B. 532.**

563 If H.B. 308, Crime Victim Amendments, and H.B. 532, State Boards and Commissions  
564 Modifications, both pass and become law, the Legislature intends that, on December 31, 2024,  
565 the following language replace Subsection ~~63M-7-904~~(3)(d) enacted in H.B. 532: "(d) review  
566 any action taken by a victim rights committee created in accordance with Section  
567 ~~63M-7-1002~~."