

STUDENT RIGHT TO COUNSEL

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill enacts provisions related to disciplinary proceedings in an institution of higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts provisions related to disciplinary proceedings in institutions of higher education, including:

- requiring an institution of higher education to allow certain parties to have legal representation at a disciplinary proceeding;
- governing the exchange of evidence at a disciplinary proceeding;
- prohibiting certain conflicts of interest in a disciplinary proceeding; and
- authorizing a cause of action;
- ▶ requires an institution to adopt policies and procedures consistent with the provisions of this bill; and
- ▶ amends applicable governmental immunity provisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63G-7-301**, as last amended by Laws of Utah 2023, Chapter 516

31 **67-5-1**, as last amended by Laws of Utah 2023, Chapter 330

32 ENACTS:

33 **53B-27-601**, Utah Code Annotated 1953

34 **53B-27-602**, Utah Code Annotated 1953

35 **53B-27-603**, Utah Code Annotated 1953

36 **53B-27-604**, Utah Code Annotated 1953

37 **53B-27-605**, Utah Code Annotated 1953

38 **53B-27-606**, Utah Code Annotated 1953

39 **53B-27-607**, Utah Code Annotated 1953

40 **53B-27-608**, Utah Code Annotated 1953

41 **53B-27-609**, Utah Code Annotated 1953



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

44 Section 1. Section **53B-27-601** is enacted to read:

45 **Part 6. Student Legal Representation**

46 **53B-27-601. Application.**

47 The provisions of this part do not:

48 (1) govern campus law enforcement departments or law enforcement personnel; or

49 (2) otherwise replace or amend criminal procedures that govern law enforcement

50 activities.

51 Section 2. Section **53B-27-602** is enacted to read:

52 **53B-27-602. Definitions.**

53 As used in this part:

54 (1) "Academic dishonesty" means an act of dishonesty relating to a student's academic
55 work or performance.

56 (2) "Accused student" means an individual enrolled in an institution who has allegedly
57 violated a policy or rule.

58 (3) "Accused student organization" means a student organization, recognized by an

59 institution, that has allegedly violated a policy or rule.

60 (4) "Alleged victim" means an individual whose rights are allegedly infringed or who
61 is otherwise allegedly harmed by an accused student's or a student organization's violation of a
62 policy or rule.

63 (5) "Evidence" means information that is inculpatory or exculpatory as the information
64 relates to an accusation against an accused student or accused student organization, including:

65 (a) a complainant statement;

66 (b) a third-party witness statement;

67 (c) electronically stored information;

68 (d) a written communication;

69 (e) a post to social media; or

70 (f) demonstrative evidence.

71 (6) "Full participation" means the opportunity in a student or student organization
72 disciplinary proceeding to:

73 (a) make opening and closing statements;

74 (b) examine and cross-examine a witness;

75 (c) introduce relevant evidence; and

76 (d) provide support, guidance, or advice to an accused student, accused student
77 organization, or alleged victim.

78 (7) "Legal representation" means an attorney, who is licensed to practice law in this
79 state and whom:

80 (a) an accused student selects to assist the student in the student's disciplinary
81 proceeding;

82 (b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to
83 the alleged victim; or

84 (c) an accused student organization selects to assist the student organization at a
85 student organization disciplinary proceeding.

86 (8) "Nonattorney advocate" means an individual, who is not licensed to practice law
87 and whom:

88 (a) an accused student selects to assist the student in the student's disciplinary
89 proceeding;

90 (b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to
 91 the alleged victim; or

92 (c) an accused student organization selects to assist the student organization at a
 93 student organization disciplinary proceeding.

94 (9) "Policy or rule" means a policy or rule ~~that~~ , or a relevant section of a policy or rule,
 94a ~~that~~ of an institution that, if violated, may result
 95 in:

96 (a) for a student, a suspension of 10 calendar days or more or expulsion from the
 97 institution; or

98 (b) for a student organization, the suspension or the removal of institutional
 99 recognition of the student organization.

100 (10) ~~that~~ ["Proceeding" means an adjudicatory meeting, whether formal or informal,
 101 ~~including an appeal, that is:] "Proceeding" means an adjudicatory hearing,~~
 101a ~~including an appeal, in which evidence is presented to a hearing officer or a hearing panel, and~~
 101b ~~that is:~~ ~~that~~

102 (a) required by a policy or rule; or

103 (b) held to determine whether a policy or rule has been violated.

104 (11) (a) "Student disciplinary proceeding" means a proceeding initiated by an
 105 institution to determine whether an accused student has violated a policy or rule.

106 (b) "Student disciplinary proceeding" does not include a proceeding that solely
 107 involves a student's academic dishonesty.

108 (12) "Student organization" means a club or other organization:

109 (a) that meets during noninstructional time;

110 (b) that is recognized by the institution at which the organization meets; and

111 (c) with a majority of members who are current students at the institution.

112 (13) (a) "Student organization disciplinary proceeding" means a proceeding initiated by
 113 an institution to determine whether an accused student organization has violated a rule or
 114 policy.

115 (b) "Student organization disciplinary proceeding" does not include a proceeding that
 116 solely involves a student's academic dishonesty.

117 Section 3. Section **53B-27-603** is enacted to read:

118 **53B-27-603. Student disciplinary proceedings -- Legal representation.**

119 (1) An institution may not prohibit:

120 (a) an accused student from being represented, at the accused student's expense, by

121 legal representation or a nonattorney advocate at a student disciplinary proceeding that pertains
122 to the accused student; or

123 (b) an accused student's legal representation or nonattorney advocate from full
124 participation in a student disciplinary proceeding that pertains to the accused student.

125 (2) An institution may not prohibit:

126 (a) an alleged victim from being represented, at the alleged victim's expense, by legal
127 representation or a nonattorney advocate at a student disciplinary proceeding that pertains to
128 the alleged victim; or

129 (b) the alleged victim's legal representation or nonattorney advocate from full
130 participation in a student disciplinary proceeding that pertains to the alleged victim.

131 (3) (a) An institution shall provide an accused student described in Subsection (1) or an
132 alleged victim described in Subsection (2) written notice of the accused student's or alleged
133 victim's rights under this section.

134 (b) The institution shall ensure that the notice provided to an accused student under
135 Subsection (3)(a) notifies the accused student that:

136 (i) the accused student is entitled to a student disciplinary proceeding to contest the
137 charges against the accused student;

138 (ii) the accused student is entitled to a presumption of innocence; and

139 (iii) the presumption of innocence remains until:

140 (A) the accused student acknowledges responsibility for the alleged violation; or

141 (B) the institution has established every element of the alleged violation at a student
142 disciplinary proceeding.

143 (c) Unless exigent circumstances reasonably justify proceeding without providing
144 notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure
145 that the institution provides written notice of the accused student's or alleged victim's rights as
146 soon as practicable but no later than seven days before a student disciplinary proceeding that
147 pertains to the accused student or alleged victim.

148 Section 4. Section **53B-27-604** is enacted to read:

149 **53B-27-604. Student organization disciplinary proceedings -- Legal**
150 **representation.**

151 (1) An institution may not prohibit:

152 (a) an accused student organization from being represented, at the accused student
153 organization's expense, by legal representation or a nonattorney advocate at a student
154 organization disciplinary proceeding that pertains to the accused student organization; or

155 (b) an accused student organization's legal representation or nonattorney advocate from
156 full participation in a student organization disciplinary proceeding that pertains to the accused
157 student organization.

158 (2) An institution may not prohibit:

159 (a) an alleged victim from being represented, at the alleged victim's expense, by legal
160 representation or a nonattorney advocate at a student organization disciplinary proceeding that
161 pertains to the alleged victim; or

162 (b) the alleged victim's legal representation or nonattorney advocate from full
163 participation in a student organization disciplinary proceeding that pertains to the alleged
164 victim.

165 (3) (a) An institution shall provide an accused student organization described in
166 Subsection (1) or an alleged victim described in Subsection (2) written notice of the accused
167 student organization's or alleged victim's rights under this section.

168 (b) The institution shall ensure that the notice provided to an accused student
169 organization under Subsection (3)(a) notifies the accused student organization that:

170 (i) the accused student organization is entitled to a student organization disciplinary
171 proceeding to contest the charges against the accused student organization;

172 (ii) the accused student organization is entitled to a presumption of innocence; and

173 (iii) the presumption of innocence remains until:

174 (A) the accused student organization acknowledges responsibility for the alleged
175 violation; or

176 (B) the institution has established every element of the alleged violation at a student
177 organization disciplinary proceeding.

178 (c) Unless exigent circumstances reasonably justify proceeding without providing
179 notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure
180 that the institution provides written notice of the accused student organization's or alleged
181 victim's rights as soon as practicable but no later than seven days before a student organization
182 disciplinary proceeding that pertains to the accused student organization or alleged victim.

183 Section 5. Section **53B-27-605** is enacted to read:

184 **53B-27-605. Exchange of evidence.**

185 (1) An institution shall ensure that an accused student, an alleged victim, or an accused
186 student organization has access to all material evidence that is in the institution's possession,
187 including both inculpatory and exculpatory evidence, unless the material is subject to a legal
188 privilege, no later than one week before the day on which a proceeding begins.

189 (2) Nothing in this part:

190 (a) provides for formal or informal discovery beyond the exchange of evidence
191 described in Subsection (1); or

192 (b) incorporates or binds an institution to:

193 (i) the Utah Rules of Civil Procedure or the Utah Rules of Evidence; or

194 (ii) the Federal Rules of Civil Procedure or the Federal Rules of Evidence.

195 Section 6. Section **53B-27-606** is enacted to read:

196 **53B-27-606. Conflict of interest.**

197 (1) An institution shall conduct a student disciplinary proceeding or student
198 organization disciplinary proceeding in an impartial manner free from conflicts of interests.

199 (2) Except as provided in Subsection (3), in order to avoid conflicts of interest created
200 by a comingling of roles, an institution shall prohibit an individual employed by or otherwise
201 representing an institution from acting as an adjudicator, hearing officer, or appellate hearing
202 officer in a student disciplinary proceeding or student organization disciplinary proceeding if
203 the individual has also served in one of the following roles in the same matter:

204 (a) an advocate or counselor for an alleged victim, accused student, or accused student
205 organization;

206 (b) an investigator;

207 (c) an institutional prosecutor; or

208 (d) an advisor to a person described in Subsection (2)(a), (b), or (c).

209 (3) If an individual employed by the institution or otherwise representing the institution
210 serves as an investigator and an institutional prosecutor for the alleged violation of a policy or
211 rule, the institution shall advise an accused student, accused student organization, or alleged
212 victim before the investigation proceeding.

213 (4) An individual may not serve as an investigator or institutional prosecutor and an

214 advocate for an accused student, accused student organization, or alleged victim in the same
215 matter.

216 (5) In a proceeding conducted under this part, an institution shall allow an accused
217 student, accused student organization, or an alleged victim to raise objections to issues that
218 could potentially compromise the impartiality of the proceedings, including any potential
219 conflicts of interest in violation of this section.

220 Section 7. Section **53B-27-607** is enacted to read:

221 **53B-27-607. Application -- Institution policies.**

222 (1) This part does not prohibit an institution from temporarily suspending an accused
223 student or accused student organization pending the completion of a student or student
224 organization disciplinary proceeding.

225 (2) An institution shall:

226 (a) enact policies to govern proceedings in which a student has a right to an active legal
227 representation or a nonattorney advocate in accordance with this part;

228 (b) train adjudicators, hearing officers, and appellate hearing officers on relevant
229 evidence and nonrelevant, nonprobative evidence; and

230 (c) enact policies and procedures to notify a student of the student's right to bring a
231 cause of action in violation of this part to the attorney general's office.

232 (3) An institution may adopt a policy requiring a legal representation or nonattorney
233 advocate of an accused student, alleged victim, or accused student organization to submit
234 questions for an opposing party to the hearing officer.

235 Section 8. Section **53B-27-608** is enacted to read:

236 **53B-27-608. Cause of action.**

237 The attorney general may bring an action to enjoin a violation of this part, in a state
238 court of competent jurisdiction, against an institution or an institution's agent acting in the
239 agent's official capacity.

240 Section 9. Section **53B-27-609** is enacted to read:

241 **53B-27-609. Statute of limitations.**

242 (1) The attorney general may not bring an action under this part later than one year
243 after the day on which the cause of action accrues.

244 (2) The cause of action accrues on the day on which the student or student organization

245 receives final notice, from the institution, of sanction or discipline that violates an institution's
246 rule or policy.

247 Section 10. Section **63G-7-301** is amended to read:

248 **63G-7-301. Waivers of immunity.**

249 (1) (a) Immunity from suit of each governmental entity is waived as to any contractual
250 obligation.

251 (b) Actions arising out of contractual rights or obligations are not subject to the
252 requirements of Section [63G-7-401](#), [63G-7-402](#), [63G-7-403](#), or [63G-7-601](#).

253 (c) The Division of Water Resources is not liable for failure to deliver water from a
254 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development
255 Act, if the failure to deliver the contractual amount of water is due to drought, other natural
256 condition, or safety condition that causes a deficiency in the amount of available water.

257 (2) Immunity from suit of each governmental entity is waived:

258 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
259 personal property;

260 (b) as to any action brought to foreclose mortgages or other liens on real or personal
261 property, to determine any adverse claim on real or personal property, or to obtain an
262 adjudication about any mortgage or other lien that the governmental entity may have or claim
263 on real or personal property;

264 (c) as to any action based on the negligent destruction, damage, or loss of goods,
265 merchandise, or other property while it is in the possession of any governmental entity or
266 employee, if the property was seized for the purpose of forfeiture under any provision of state
267 law;

268 (d) subject to Section [63G-7-302](#), as to any action brought under the authority of Utah
269 Constitution, Article I, Section 22, for the recovery of compensation from the governmental
270 entity when the governmental entity has taken or damaged private property for public uses
271 without just compensation;

272 (e) as to any claim for attorney fees or costs under Section [63G-2-209](#), [63G-2-405](#), or
273 [63G-2-802](#);

274 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
275 Act;

276 (g) as to any action brought to obtain relief from a land use regulation that imposes a
277 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious
278 Land Use Act;

279 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

280 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
281 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

282 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir,
283 or other public improvement;

284 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury
285 proximately caused by a negligent act or omission of an employee committed within the scope
286 of employment;

287 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from
288 a sexual battery, as provided in Section 76-9-702.1, committed:

289 (i) against a student of a public elementary or secondary school, including a charter
290 school; and

291 (ii) by an employee of a public elementary or secondary school or charter school who:

292 (A) at the time of the sexual battery, held a position of special trust, as defined in
293 Section 76-5-404.1, with respect to the student;

294 (B) is criminally charged in connection with the sexual battery; and

295 (C) the public elementary or secondary school or charter school knew or in the exercise
296 of reasonable care should have known, at the time of the employee's hiring, to be a sex
297 offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex
298 and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a
299 background check under Section 53G-11-402; ~~and~~

300 (k) as to any action brought under Section 78B-6-2303[-]; and

301 (l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student
302 Legal Representation.

303 (3) (a) As used in this Subsection (3):

304 (i) "Code of conduct" means a code of conduct that:

305 (A) is not less stringent than a model code of conduct, created by the State Board of
306 Education, establishing a professional standard of care for preventing the conduct described in

307 Subsection (3)(a)(i)(D);

308 (B) is adopted by the applicable local education governing body;

309 (C) regulates behavior of a school employee toward a student; and

310 (D) includes a prohibition against any sexual conduct between an employee and a
311 student and against the employee and student sharing any sexually explicit or lewd
312 communication, image, or photograph.

313 (ii) "Local education agency" means:

314 (A) a school district;

315 (B) a charter school; or

316 (C) the Utah Schools for the Deaf and the Blind.

317 (iii) "Local education governing board" means:

318 (A) for a school district, the local school board;

319 (B) for a charter school, the charter school governing board; or

320 (C) for the Utah Schools for the Deaf and the Blind, the state board.

321 (iv) "Public school" means a public elementary or secondary school.

322 (v) "Sexual abuse" means the offense described in Subsection [76-5-404.1\(2\)](#).

323 (vi) "Sexual battery" means the offense described in Section [76-9-702.1](#), considering
324 the term "child" in that section to include an individual under age 18.

325 (b) Notwithstanding Subsection [63G-7-101\(4\)](#), immunity from suit is waived as to a
326 claim against a local education agency for an injury resulting from a sexual battery or sexual
327 abuse committed against a student of a public school by a paid employee of the public school
328 who is criminally charged in connection with the sexual battery or sexual abuse, unless:

329 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
330 code of conduct; and

331 (ii) before the sexual battery or sexual abuse occurred, the public school had:

332 (A) provided training on the code of conduct to the employee; and

333 (B) required the employee to sign a statement acknowledging that the employee has
334 read and understands the code of conduct.

335 (4) (a) As used in this Subsection (4):

336 (i) "Higher education institution" means an institution included within the state system
337 of higher education under Section [53B-1-102](#).

338 (ii) "Policy governing behavior" means a policy adopted by a higher education
339 institution or the Utah Board of Higher Education that:

340 (A) establishes a professional standard of care for preventing the conduct described in
341 Subsections (4)(a)(ii)(C) and (D);

342 (B) regulates behavior of a special trust employee toward a subordinate student;

343 (C) includes a prohibition against any sexual conduct between a special trust employee
344 and a subordinate student; and

345 (D) includes a prohibition against a special trust employee and subordinate student
346 sharing any sexually explicit or lewd communication, image, or photograph.

347 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.

348 (iv) "Special trust employee" means an employee of a higher education institution who
349 is in a position of special trust, as defined in Section 76-5-404.1, with a higher education
350 student.

351 (v) "Subordinate student" means a student:

352 (A) of a higher education institution; and

353 (B) whose educational opportunities could be adversely impacted by a special trust
354 employee.

355 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
356 claim for an injury resulting from a sexual battery committed against a subordinate student by a
357 special trust employee, unless:

358 (i) the institution proves that the special trust employee's behavior that otherwise would
359 constitute a sexual battery was:

360 (A) with a subordinate student who was at least 18 years old at the time of the
361 behavior; and

362 (B) with the student's consent; or

363 (ii) (A) at the time of the sexual battery, the higher education institution was subject to
364 a policy governing behavior; and

365 (B) before the sexual battery occurred, the higher education institution had taken steps
366 to implement and enforce the policy governing behavior.

367 Section 11. Section 67-5-1 is amended to read:

368 **67-5-1. General duties.**

- 369 (1) The attorney general shall:
- 370 (a) perform all duties in a manner consistent with the attorney-client relationship under
- 371 Section [67-5-17](#);
- 372 (b) except as provided in Sections [10-3-928](#) and [17-18a-403](#), attend the Supreme Court
- 373 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
- 374 defend all causes to which the state or any officer, board, or commission of the state in an
- 375 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
- 376 state is interested;
- 377 (c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of
- 378 process as necessary to execute the judgment;
- 379 (d) account for, and pay over to the proper officer, all money that comes into the
- 380 attorney general's possession that belongs to the state;
- 381 (e) keep a file of all cases in which the attorney general is required to appear, including
- 382 any documents and papers showing the court in which the cases have been instituted and tried,
- 383 and whether they are civil or criminal, and:
- 384 (i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to
- 385 judgment, a memorandum of the judgment and of any process issued if satisfied, and if not
- 386 satisfied, documentation of the return of the sheriff;
- 387 (ii) if criminal, the nature of the crime, the mode of prosecution, the stage of
- 388 proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the
- 389 execution, if the sentence has been executed, and, if not executed, the reason for the delay or
- 390 prevention; and
- 391 (iii) deliver this information to the attorney general's successor in office;
- 392 (f) exercise supervisory powers over the district and county attorneys of the state in all
- 393 matters pertaining to the duties of the district and county attorneys' offices, including the
- 394 authority described in Subsection (2);
- 395 (g) give the attorney general's opinion in writing and without fee, when required, upon
- 396 any question of law relating to the office of the requester:
- 397 (i) in accordance with Section [67-5-1.1](#), to the Legislature or either house;
- 398 (ii) to any state officer, board, or commission; and
- 399 (iii) to any county attorney or district attorney;

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

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

406 (j) when the property of a judgment debtor in any judgment mentioned in Subsection
407 (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
408 taking precedence of the judgment in favor of the state, redeem the property, under the
409 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
410 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
411 out of any money appropriated for these purposes;

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

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

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

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

431 (o) administer the Children's Justice Center as a program to be implemented in various
432 counties pursuant to Sections 67-5b-101 through 67-5b-107;

433 (p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a,
434 Constitutional and Federalism Defense Act;

435 (q) pursue any appropriate legal action to implement the state's public lands policy
436 established in Section 63C-4a-103;

437 (r) investigate and prosecute violations of all applicable state laws relating to fraud in
438 connection with the state Medicaid program and any other medical assistance program
439 administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False
440 Claims Act;

441 (s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

442 (i) in health care facilities that receive payments under the state Medicaid program;

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

445 (iii) who are receiving medical assistance under the Medicaid program as defined in
446 Section 26B-3-101 in a noninstitutional or other setting;

447 (t) (i) report at least twice per year to the Legislative Management Committee on any
448 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

449 (A) cost the state more than \$500,000; or

450 (B) require the state to take legally binding action that would cost more than \$500,000
451 to implement; and

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

454 (u) (i) submit a written report to the committees described in Subsection (1)(u)(ii) that
455 summarizes any lawsuit or decision in which a court or the Office of the Attorney General has
456 determined that a state statute is unconstitutional or unenforceable since the attorney general's
457 last report under this Subsection (1)(u), including any:

458 (A) settlements reached;

459 (B) consent decrees entered;

460 (C) judgments issued;

461 (D) preliminary injunctions issued;

- 462 (E) temporary restraining orders issued; or
- 463 (F) formal or informal policies of the Office of the Attorney General to not enforce a
464 law; and
- 465 (ii) at least 30 days before the Legislature's May and November interim meetings,
466 submit the report described in Subsection (1)(u)(i) to:
- 467 (A) the Legislative Management Committee;
- 468 (B) the Judiciary Interim Committee; and
- 469 (C) the Law Enforcement and Criminal Justice Interim Committee;
- 470 (v) if the attorney general operates the Office of the Attorney General or any portion of
471 the Office of the Attorney General as an internal service fund agency in accordance with
472 Section 67-5-4, submit to the rate committee established in Section 67-5-34:
- 473 (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
- 474 (ii) any other information or analysis requested by the rate committee;
- 475 (w) before the end of each calendar year, create an annual performance report for the
476 Office of the Attorney General and post the report on the attorney general's website;
- 477 (x) ensure that any training required under this chapter complies with Title 63G,
478 Chapter 22, State Training and Certification Requirements;
- 479 (y) notify the legislative general counsel in writing within three business days after the
480 day on which the attorney general is officially notified of a claim, regardless of whether the
481 claim is filed in state or federal court, that challenges:
- 482 (i) the constitutionality of a state statute;
- 483 (ii) the validity of legislation; or
- 484 (iii) any action of the Legislature; and
- 485 (z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a
486 special advisor to the Office of the Governor and the Office of the Attorney General in matters
487 relating to Native American and tribal issues to:
- 488 (A) establish outreach to the tribes and affected counties and communities; and
- 489 (B) foster better relations and a cooperative framework; and
- 490 (ii) annually report to the Executive Offices and Criminal Justice Appropriations
491 Subcommittee regarding:
- 492 (A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

493 (B) whether the need remains for the ongoing appropriation to fund the special advisor
494 described in Subsection (1)(z)(i)[-]; and

495 (aa) ensure compliance with Title 53B, Chapter 27, Part 6, Student Legal
496 Representation, by:

497 (i) establishing a process to track the number of complaints submitted by students;

498 (ii) pursuing civil action to enforce statutory protections; and

499 (iii) no later than November 1 each year, reporting to the Judiciary Interim Committee
500 regarding the attorney general's enforcement under this Subsection (1)(aa).

501 (2) (a) The attorney general may require a district attorney or county attorney of the
502 state to, upon request, report on the status of public business entrusted to the district or county
503 attorney's charge.

504 (b) The attorney general may review investigation results de novo and file criminal
505 charges, if warranted, in any case involving a first degree felony, if:

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

509 (A) declines to file criminal charges; or

510 (B) fails to screen the case for criminal charges within six months after the law
511 enforcement agency's submission of the investigation results; and

512 (ii) after consultation with the county attorney or district attorney of the jurisdiction
513 where the incident occurred, the attorney general reasonably believes action by the attorney
514 general would not interfere with an ongoing investigation or prosecution by the county attorney
515 or district attorney of the jurisdiction where the incident occurred.

516 (c) If the attorney general decides to conduct a review under Subsection (2)(b), the
517 district attorney, county attorney, and law enforcement agency shall, within 14 days after the
518 day on which the attorney general makes a request, provide the attorney general with:

519 (i) all information relating to the investigation, including all reports, witness lists,
520 witness statements, and other documents created or collected in relation to the investigation;

521 (ii) all recordings, photographs, and other physical or digital media created or collected
522 in relation to the investigation;

523 (iii) access to all evidence gathered or collected in relation to the investigation; and

524 (iv) the identification of, and access to, all officers or other persons who have
525 information relating to the investigation.

526 (d) If a district attorney, county attorney, or law enforcement agency fails to timely
527 comply with Subsection (2)(c), the attorney general may seek a court order compelling
528 compliance.

529 (e) If the attorney general seeks a court order under Subsection (2)(d), the court shall
530 grant the order unless the district attorney, county attorney, or law enforcement agency shows
531 good cause and a compelling interest for not complying with Subsection (2)(c).

532 Section 12. **Effective date.**

533 This bill takes effect on May 1, 2024.