

Representative Jordan D. Teuscher proposes the following substitute bill:

DUE PROCESS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses due process in government proceedings, including 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;

- ▶ amends governmental immunity provisions; and

- ▶ amends applicable governmental immunity provisions.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63G-7-301**, as last amended by Laws of Utah 2023, Chapter 516

32 **67-5-1**, as last amended by Laws of Utah 2023, Chapter 330

33 ENACTS:

34 **53B-27-601**, Utah Code Annotated 1953

35 **53B-27-602**, Utah Code Annotated 1953

36 **53B-27-603**, Utah Code Annotated 1953

37 **53B-27-604**, Utah Code Annotated 1953

38 **53B-27-605**, Utah Code Annotated 1953

39 **53B-27-606**, Utah Code Annotated 1953

40 **53B-27-607**, Utah Code Annotated 1953

41 **53B-27-608**, Utah Code Annotated 1953

42 **53B-27-609**, Utah Code Annotated 1953



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

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

46 **Part 6. Student Legal Representation**

47 **53B-27-601. Application.**

48 The provisions of this part do not:

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

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

51 activities.

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

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

54 As used in this part:

55 (1) "Academic dishonesty" means an act of dishonesty relating to a student's academic

56 work or performance.

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

59 (3) "Accused student organization" means a student organization, recognized by an
60 institution, that has allegedly violated a policy or rule.

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

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

66 (a) a complainant statement;

67 (b) a third-party witness statement;

68 (c) electronically stored information;

69 (d) a written communication;

70 (e) a post to social media; or

71 (f) demonstrative evidence.

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

74 (a) make opening and closing statements;

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

76 (c) introduce relevant evidence; and

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

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

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

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

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

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

88 and whom:

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

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

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

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

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

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

101 (10) "Proceeding" means an adjudicatory hearing, including an appeal, in which
102 evidence is presented to a hearing officer or a hearing panel, and that is:

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

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

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

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

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

110 (a) that meets during noninstructional time;

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

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

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

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

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

119 **53B-27-603. Student disciplinary proceedings -- Legal representation.**

120 (1) An institution may not prohibit:

121 (a) an accused student from being represented, at the accused student's expense, by
122 legal representation or a nonattorney advocate at a student disciplinary proceeding that pertains
123 to the accused student; or

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

126 (2) An institution may not prohibit:

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

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

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

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

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

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

140 (iii) the presumption of innocence remains until:

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

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

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

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

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

152 (1) An institution may not prohibit:

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

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

159 (2) An institution may not prohibit:

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

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

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

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

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

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

174 (iii) the presumption of innocence remains until:

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

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

179 (c) Unless exigent circumstances reasonably justify proceeding without providing
180 notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure

181 that the institution provides written notice of the accused student organization's or alleged
182 victim's rights as soon as practicable but no later than seven days before a student organization
183 disciplinary proceeding that pertains to the accused student organization or alleged victim.

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

185 **53B-27-605. Exchange of evidence.**

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

190 (b) Evidence that is an accused student's or an alleged victim's personal medical record,
191 mental health record, therapy note, or journal may not be used as evidence in a proceeding
192 unless the accused student or alleged victim consents to the use of the evidence in the
193 proceeding.

194 (c) Any evidence presented in a proceeding under this part is confidential and may not
195 be:

196 (i) used as evidence in a subsequent proceeding; or

197 (ii) used or disclosed to a third-party for any other purpose other than for the
198 proceeding.

199 (2) Nothing in this part:

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

202 (b) incorporates or binds an institution to:

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

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

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

206 **53B-27-606. Conflict of interest.**

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

209 (2) Except as provided in Subsection (3), in order to avoid conflicts of interest created
210 by a comingling of roles, an institution shall prohibit an individual employed by or otherwise
211 representing an institution from acting as an adjudicator, hearing officer, or appellate hearing

212 officer in a student disciplinary proceeding or student organization disciplinary proceeding if
213 the individual has also served in one of the following roles in the same matter:

214 (a) an advocate or counselor for an alleged victim, accused student, or accused student
215 organization;

216 (b) an investigator;

217 (c) an institutional prosecutor; or

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

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

223 (4) An individual may not serve as an investigator or institutional prosecutor and an
224 advocate for an accused student, accused student organization, or alleged victim in the same
225 matter.

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

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

231 **53B-27-607. Application -- Institution policies.**

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

235 (2) An institution shall:

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

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

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

242 (3) An institution may adopt a policy requiring a legal representation or nonattorney

243 advocate of an accused student, alleged victim, or accused student organization to submit
244 questions for an opposing party to the hearing officer.

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

246 **53B-27-608. Cause of action.**

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

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

251 **53B-27-609. Statute of limitations.**

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

254 (2) The cause of action accrues on the day on which the student or student organization
255 receives final notice, from the institution, of sanction or discipline that violates an institution's
256 rule or policy.

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

258 **63G-7-301. Waivers of immunity.**

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

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

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

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

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

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

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

278 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah
279 Constitution, Article I, Section 22, for the recovery of compensation from the governmental
280 entity when the governmental entity has taken or damaged private property for public uses
281 without just compensation;

282 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or
283 63G-2-802;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

315 (A) is not less stringent than a model code of conduct, created by the State Board of
316 Education, establishing a professional standard of care for preventing the conduct described in
317 Subsection (3)(a)(i)(D);

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

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

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

323 (ii) "Local education agency" means:

324 (A) a school district;

325 (B) a charter school; or

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

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

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

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

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

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

332 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

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

335 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a

336 claim against a local education agency for an injury resulting from a sexual battery or sexual
337 abuse committed against a student of a public school by a paid employee of the public school
338 who is criminally charged in connection with the sexual battery or sexual abuse, unless:

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

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

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

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

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

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

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

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

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

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

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

357 (iii) "Sexual battery" means the offense described in Section [76-9-702.1](#).

358 (iv) "Special trust employee" means an employee of a higher education institution who
359 is in a position of special trust, as defined in Section [76-5-404.1](#), with a higher education
360 student.

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

362 (A) of a higher education institution; and

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

365 (b) Notwithstanding Subsection [63G-7-101\(4\)](#), immunity from suit is waived as to a
366 claim for an injury resulting from a sexual battery committed against a subordinate student by a

367 special trust employee, unless:

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

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

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

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

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

377 ~~§→ [(5) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived if:~~

378 ~~—— (a) in response to a suit filed on or after May 1, 2024, by a government employee in the~~
379 ~~government employee's personal capacity, the defendant files a suit or counterclaim against the~~
380 ~~government employee:~~

381 ~~—— (i) that arises out of the transaction or occurrence that is the subject matter of the~~
382 ~~government employee's cause of action against the defendant; and~~

383 ~~—— (ii) for which the government employee would be immune under this chapter if the~~
384 ~~defendant had filed suit against the government employee without the government employee~~
385 ~~first filing suit against the defendant; or~~

386 ~~—— (b) in a suit filed on or after May 1, 2024, by a plaintiff against a government employee~~
387 ~~asserting a cause of action for which the government employee is immune under this chapter,~~
388 ~~the government employee files a suit or counterclaim against the plaintiff, in the government~~
389 ~~employee's personal capacity, that arises out of the transaction or occurrence that is the subject~~
390 ~~matter of the plaintiff's cause of action against the government employee.] ←§~~

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

392 **67-5-1. General duties.**

393 (1) The attorney general shall:

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

396 (b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court
397 and the Court of Appeals of this state, and all courts of the United States, and prosecute or

398 defend all causes to which the state or any officer, board, or commission of the state in an
399 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
400 state is interested;

401 (c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of
402 process as necessary to execute the judgment;

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

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

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

411 (ii) if criminal, the nature of the crime, the mode of prosecution, the stage of
412 proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the
413 execution, if the sentence has been executed, and, if not executed, the reason for the delay or
414 prevention; and

415 (iii) deliver this information to the attorney general's successor in office;

416 (f) exercise supervisory powers over the district and county attorneys of the state in all
417 matters pertaining to the duties of the district and county attorneys' offices, including the
418 authority described in Subsection (2);

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

421 (i) in accordance with Section [67-5-1.1](#), to the Legislature or either house;

422 (ii) to any state officer, board, or commission; and

423 (iii) to any county attorney or district attorney;

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

426 (i) purchase in the name of the state, under the direction of the state Board of
427 Examiners, any property offered for sale under execution issued upon judgments in favor of or
428 for the use of the state, and enter satisfaction in whole or in part of the judgments as the

429 consideration of the purchases;

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

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

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

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

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

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

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

459 (q) pursue any appropriate legal action to implement the state's public lands policy

460 established in Section [63C-4a-103](#);

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

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

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

467 (ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.

468 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

469 (iii) who are receiving medical assistance under the Medicaid program as defined in
470 Section [26B-3-101](#) in a noninstitutional or other setting;

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

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

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

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

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

482 (A) settlements reached;

483 (B) consent decrees entered;

484 (C) judgments issued;

485 (D) preliminary injunctions issued;

486 (E) temporary restraining orders issued; or

487 (F) formal or informal policies of the Office of the Attorney General to not enforce a
488 law; and

489 (ii) at least 30 days before the Legislature's May and November interim meetings,

490 submit the report described in Subsection (1)(u)(i) to:

- 491 (A) the Legislative Management Committee;
- 492 (B) the Judiciary Interim Committee; and
- 493 (C) the Law Enforcement and Criminal Justice Interim Committee;
- 494 (v) if the attorney general operates the Office of the Attorney General or any portion of
- 495 the Office of the Attorney General as an internal service fund agency in accordance with
- 496 Section 67-5-4, submit to the rate committee established in Section 67-5-34:
- 497 (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
- 498 (ii) any other information or analysis requested by the rate committee;
- 499 (w) before the end of each calendar year, create an annual performance report for the
- 500 Office of the Attorney General and post the report on the attorney general's website;
- 501 (x) ensure that any training required under this chapter complies with Title 63G,
- 502 Chapter 22, State Training and Certification Requirements;
- 503 (y) notify the legislative general counsel in writing within three business days after the
- 504 day on which the attorney general is officially notified of a claim, regardless of whether the
- 505 claim is filed in state or federal court, that challenges:
- 506 (i) the constitutionality of a state statute;
- 507 (ii) the validity of legislation; or
- 508 (iii) any action of the Legislature; and
- 509 (z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a
- 510 special advisor to the Office of the Governor and the Office of the Attorney General in matters
- 511 relating to Native American and tribal issues to:
- 512 (A) establish outreach to the tribes and affected counties and communities; and
- 513 (B) foster better relations and a cooperative framework; and
- 514 (ii) annually report to the Executive Offices and Criminal Justice Appropriations
- 515 Subcommittee regarding:
- 516 (A) the status of the work of the special advisor described in Subsection (1)(z)(i); and
- 517 (B) whether the need remains for the ongoing appropriation to fund the special advisor
- 518 described in Subsection (1)(z)(i)[-]; and
- 519 (aa) ensure compliance with Title 53B, Chapter 27, Part 6, Student Legal
- 520 Representation, by:
- 521 (i) establishing a process to track the number of complaints submitted by students;

522 (ii) pursuing civil action to enforce statutory protections; and
523 (iii) no later than November 1 each year, reporting to the Judiciary Interim Committee
524 regarding the attorney general's enforcement under this Subsection (1)(aa).

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

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

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

533 (A) declines to file criminal charges; or

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

536 (ii) after consultation with the county attorney or district attorney of the jurisdiction
537 where the incident occurred, the attorney general reasonably believes action by the attorney
538 general would not interfere with an ongoing investigation or prosecution by the county attorney
539 or district attorney of the jurisdiction where the incident occurred.

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

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

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

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

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

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

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

556 Section 12. **Effective date.**

557 This bill takes effect on May 1, 2024.