

Representative Doug Owens proposes the following substitute bill:

BIAS INCIDENT REPORTING

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Owens

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill creates the bias incident reporting system.

Highlighted Provisions:

This bill:

▶ directs the attorney general to create and operate the bias incident reporting system;

and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

ENACTS:

67-5-40, Utah Code Annotated 1953

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



26 Section 1. Section 67-5-1 is amended to read:

27 **67-5-1. General duties.**

28 (1) The attorney general shall:

29 (a) perform all duties in a manner consistent with the attorney-client relationship under

30 Section 67-5-17;

31 (b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court
32 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
33 defend all causes to which the state or any officer, board, or commission of the state in an
34 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
35 state is interested;

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

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

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

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

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

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

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

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

56 (i) in accordance with Section 67-5-1.1, to the Legislature or either house;

- 57 (ii) to any state officer, board, or commission; and
- 58 (iii) to any county attorney or district attorney;
- 59 (h) when required by the public service or directed by the governor, assist any county,
- 60 district, or city attorney in the discharge of county, district, or city attorney's duties;
- 61 (i) purchase in the name of the state, under the direction of the state Board of
- 62 Examiners, any property offered for sale under execution issued upon judgments in favor of or
- 63 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
- 64 consideration of the purchases;
- 65 (j) when the property of a judgment debtor in any judgment mentioned in Subsection
- 66 (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
- 67 taking precedence of the judgment in favor of the state, redeem the property, under the
- 68 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
- 69 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
- 70 out of any money appropriated for these purposes;
- 71 (k) when in the attorney general's opinion it is necessary for the collection or
- 72 enforcement of any judgment, institute and prosecute on behalf of the state any action or
- 73 proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment
- 74 debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of
- 75 Examiners, out of any money not otherwise appropriated;
- 76 (l) discharge the duties of a member of all official boards of which the attorney general
- 77 is or may be made a member by the Utah Constitution or by the laws of the state, and other
- 78 duties prescribed by law;
- 79 (m) institute and prosecute proper proceedings in any court of the state or of the United
- 80 States to restrain and enjoin corporations organized under the laws of this or any other state or
- 81 territory from acting illegally or in excess of their corporate powers or contrary to public
- 82 policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and
- 83 wind up their affairs;
- 84 (n) institute investigations for the recovery of all real or personal property that may
- 85 have escheated or should escheat to the state, and for that purpose, subpoena any persons
- 86 before any of the district courts to answer inquiries and render accounts concerning any
- 87 property, examine all books and papers of any corporations, and when any real or personal

88 property is discovered that should escheat to the state, institute suit in the district court of the
89 county where the property is situated for its recovery, and escheat that property to the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

117 (A) settlements reached;

118 (B) consent decrees entered;

- 119 (C) judgments issued;
- 120 (D) preliminary injunctions issued;
- 121 (E) temporary restraining orders issued; or
- 122 (F) formal or informal policies of the Office of the Attorney General to not enforce a
123 law; and
- 124 (ii) at least 30 days before the Legislature's May and November interim meetings,
125 submit the report described in Subsection (1)(u)(i) to:
- 126 (A) the Legislative Management Committee;
- 127 (B) the Judiciary Interim Committee; and
- 128 (C) the Law Enforcement and Criminal Justice Interim Committee;
- 129 (v) if the attorney general operates the Office of the Attorney General or any portion of
130 the Office of the Attorney General as an internal service fund agency in accordance with
131 Section 67-5-4, submit to the rate committee established in Section 67-5-34:
- 132 (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
- 133 (ii) any other information or analysis requested by the rate committee;
- 134 (w) before the end of each calendar year, create an annual performance report for the
135 Office of the Attorney General and post the report on the attorney general's website;
- 136 (x) ensure that any training required under this chapter complies with Title 63G,
137 Chapter 22, State Training and Certification Requirements;
- 138 (y) notify the legislative general counsel in writing within three business days after the
139 day on which the attorney general is officially notified of a claim, regardless of whether the
140 claim is filed in state or federal court, that challenges:
- 141 (i) the constitutionality of a state statute;
- 142 (ii) the validity of legislation; or
- 143 (iii) any action of the Legislature; ~~and~~
- 144 (z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a
145 special advisor to the Office of the Governor and the Office of the Attorney General in matters
146 relating to Native American and tribal issues to:
- 147 (A) establish outreach to the tribes and affected counties and communities; and
- 148 (B) foster better relations and a cooperative framework; and
- 149 (ii) annually report to the Executive Offices and Criminal Justice Appropriations

150 Subcommittee regarding:

151 (A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

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

154 (aa) operate the bias incident reporting system described in Section [67-5-40](#).

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

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

160 (i) a law enforcement agency submits investigation results to the county attorney or
161 district attorney of the jurisdiction where the incident occurred and the county attorney or
162 district attorney:

163 (A) declines to file criminal charges; or

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

166 (ii) after consultation with the county attorney or district attorney of the jurisdiction
167 where the incident occurred, the attorney general reasonably believes action by the attorney
168 general would not interfere with an ongoing investigation or prosecution by the county attorney
169 or district attorney of the jurisdiction where the incident occurred.

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

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

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

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

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

180 (d) If a district attorney, county attorney, or law enforcement agency fails to timely

181 comply with Subsection (2)(c), the attorney general may seek a court order compelling
182 compliance.

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

186 Section 2. Section **67-5-40** is enacted to read:

187 **67-5-40. Bias incident reporting system.**

188 (1) As used in this section, "bias incident" means a hostile expression of animus by an
189 individual toward another individual that:

190 (a) does not rise to the level of a criminal offense; and

191 (b) is motivated by a bias against a race, a religion, an ethnic or national origin group,
192 sex, gender identity, a sexual orientation group, or a disability.

193 (2) The attorney general shall:

194 (a) establish a system for the public to report a bias incident;

195 (b) create an online form for the reporting of a bias incident; and

196 (c) collect and publicly report on the attorney general's website anonymized data
197 collected under this section.

198 (3) If the attorney general receives a report regarding a bias incident under Subsection
199 (2) and determines that the incident rises to the level of a crime, the attorney general shall
200 contact the law enforcement agency in the jurisdiction from where the report was received and
201 refer the incident for criminal investigation.

202 (4) If the attorney general receives a name, address, phone number, or other identifying
203 information of an individual alleged to have committed a bias incident as part of a report under
204 Subsection (2), and the attorney general determines the bias incident does not rise to the level
205 of a criminal offense, the attorney general shall immediately destroy or delete, in an
206 unrecoverable manner, the name, address, phone number, or other identifying information
207 received in the report.

208 Section 3. **Effective date.**

209 This bill takes effect on May 1, 2024.

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