

# HB0213S01 compared with HB0213

~~text~~ shows text that was in HB0213 but was deleted in HB0213S01.

text shows text that was not in HB0213 but was inserted into HB0213S01.

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Representative Ken Ivory proposes the following substitute bill:

## CRIME VICTIM RECORDS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: {}Ken Ivory**

Senate Sponsor: {}\_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill places restrictions on certain records relating to crime victims.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
  - ▶ provides that certain records relating to ~~crime victims~~ the payment of reparations by the Utah Office for Victims of Crime are not public records;
  - ▶ allows for the release of certain records relating to ~~crime victims~~ the payment of reparations by the Utah Office for Victims of Crime under certain circumstances;
- and
- ▶ makes technical and conforming changes.

#### Money Appropriated in this Bill:

## HB0213S01 compared with HB0213

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

**17-22-30**, as last amended by Laws of Utah 2022, Chapter 415

**52-4-205**, as last amended by Laws of Utah 2023, Chapters 263, 328, 374, and 521

**63G-2-305**, as last amended by Laws of Utah 2023, Chapters 1, 16, 205, and 329

**63G-2-305.5**, as last amended by Laws of Utah 2021, Chapter 231

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

**63M-14-205**, as enacted by Laws of Utah 2021, Chapter 179

**63N-16-201**, as last amended by Laws of Utah 2022, Chapter 332

#### ENACTS:

**63M-7-527**, Utah Code Annotated 1953

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

Section 1. Section **17-22-30** is amended to read:

**17-22-30. Prohibition on providing copy of booking photograph -- Statement required -- Criminal liability for false statement -- Remedy for failure to remove or delete.**

(1) As used in this section:

(a) "Booking photograph" means a photograph or image of an individual that is generated:

(i) for identification purposes; and

(ii) when the individual is booked into a county jail.

(b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or website that requires the payment of a fee or other consideration in order to remove or delete a booking photograph from the publication or website.

(2) A sheriff may not provide a copy of a booking photograph in any format to a person requesting a copy of the booking photograph if:

(a) the booking photograph will be placed in a publish-for-pay publication or posted to

## HB0213S01 compared with HB0213

a publish-for-pay website; or

(b) the booking photograph is a protected record under Subsection 63G-2-305[(81)]  
(80).

(3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at the time of making the request, submit a statement signed by the person affirming that the booking photograph will not be placed in a publish-for-pay publication or posted to a publish-for-pay website.

(b) A person who submits a false statement under Subsection (3)(a) is subject to criminal liability as provided in Section 76-8-504.

(4) (a) Except as provided in Subsection (5), a publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within 30 calendar days after the day on which the individual makes the request.

(b) A publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) may not condition removal or destruction of the booking photograph on the payment of a fee in an amount greater than \$50.

(c) If the publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) does not remove and destroy the booking photograph in accordance with Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of \$50 per day for each day after the 30-day deadline described in Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(5) (a) A publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within seven calendar days after the day on which the individual makes the request if:

(i) the booking photograph relates to a criminal charge:

(A) on which the individual was acquitted or not prosecuted; or

## HB0213S01 compared with HB0213

(B) that was expunged, vacated, or pardoned; and

(ii) the individual submits, in relation to the request, evidence of a disposition described in Subsection (5)(a)(i).

(b) If the publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) does not remove and destroy the booking photograph in accordance with Subsection (5)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action that the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of \$100 per day for each day after the seven-day deadline described in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(c) An act of a publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on the payment of any fee or amount constitutes theft by extortion under Section 76-6-406.

Section 2. Section **52-4-205** is amended to read:

**52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.**

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

## HB0213S01 compared with HB0213

- (i) public discussion of the transaction would:
  - (A) disclose the appraisal or estimated value of the property under consideration; or
  - (B) prevent the public body from completing the transaction on the best possible terms;
- (ii) the public body previously gave public notice that the property would be offered for sale; and
  - (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
- (f) discussion regarding deployment of security personnel, devices, or systems;
- (g) investigative proceedings regarding allegations of criminal misconduct;
- (h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;
  - (i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);
  - (j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;
  - (k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;
  - (l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed board of directors, discussing fiduciary or commercial information;
  - (m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:
    - (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;
    - (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
    - (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;
  - (n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

## HB0213S01 compared with HB0213

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments;

(r) considering a loan application, if public discussion of the loan application would disclose:

(i) nonpublic personal financial information; or

(ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business financial information the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information;

(s) a discussion of the board of the Point of the Mountain State Land Authority, created in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as defined in Section 11-59-102; or

(t) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 26B-1-506(1)(a), and the responses to the report described in Subsections 26B-1-506(2) and (4);

## HB0213S01 compared with HB0213

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 26B-1-506(1)(a), and the responses to the report described in Subsections 26B-1-506(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26B-1-403, to review and discuss an individual case, as described in Subsection 26B-1-403(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26B-1-421;

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection ~~[63G-2-305(82)]~~ 63G-2-305(81);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as

## HB0213S01 compared with HB0213

protected under Subsection [~~63G-2-305(83)~~] 63G-2-305(82);

(h) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market; and

(i) a meeting of the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and

## HB0213S01 compared with HB0213

Temporary Absence in Elected Office.

Section 3. Section **63G-2-305** is amended to read:

### **63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

## HB0213S01 compared with HB0213

- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or
- (b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

- (9) records prepared in contemplation of sale, exchange, lease, rental, or other

## HB0213S01 compared with HB0213

compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional

## HB0213S01 compared with HB0213

facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

## **HB0213S01 compared with HB0213**

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected

## HB0213S01 compared with HB0213

those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

## HB0213S01 compared with HB0213

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that

## HB0213S01 compared with HB0213

the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control

## HB0213S01 compared with HB0213

of Animal Disease;

(50) as provided in Section 26B-2-408:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

## **HB0213S01 compared with HB0213**

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

## HB0213S01 compared with HB0213

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

~~[(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:]~~

~~[(a) a victim's application or request for benefits;]~~

~~[(b) a victim's receipt or denial of benefits, and]~~

~~[(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;]~~

~~[(65)]~~ (64) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

## HB0213S01 compared with HB0213

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

~~[(66)]~~ (65) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

~~[(67)]~~ (66) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

~~[(68)]~~ (67) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

~~[(69)]~~ (68) work papers as defined in Section 31A-2-204;

~~[(70)]~~ (69) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

~~[(71)]~~ (70) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

~~[(72)]~~ (71) a record described in Section 31A-37-503;

## HB0213S01 compared with HB0213

~~[(73)]~~ (72) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

~~[(74)]~~ (73) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

~~[(75)]~~ (74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

- (a) Title 10, Utah Municipal Code;
- (b) Title 17, Counties;
- (c) Title 17B, Limited Purpose Local Government Entities - Special Districts;
- (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
- (e) Title 20A, Election Code;

~~[(76)]~~ (75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

~~[(77)]~~ (76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection ~~[(75) or (76)]~~ (74) or (75), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

~~[(78)]~~ (77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

~~[(79)]~~ (78) a record submitted to the Insurance Department under Section 31A-48-103;

~~[(80)]~~ (79) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

~~[(81)]~~ (80) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

## HB0213S01 compared with HB0213

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

~~[(82)]~~ (81) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

~~[(83)]~~ (82) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection ~~[(83)]~~ (82) may not be used to restrict access to a record evidencing a final contract or approval decision;

~~[(84)]~~ (83) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility;  
and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection ~~[(84)(a)]~~ (83)(a);

~~[(85)]~~ (84) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative

## HB0213S01 compared with HB0213

investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

~~[(86)]~~ (85) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401; and

~~[(87)]~~ (86) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake.

Section 4. Section **63G-2-305.5** is amended to read:

### **63G-2-305.5. Viewing or obtaining lists of signatures.**

(1) The records custodian of a signature described in Subsection ~~[63G-2-305(75)]~~ 63G-2-305(74) shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration:

(a) provide a list of the names of the individuals who signed the petition or request; and

(b) permit an individual to view, but not take a copy or other image of, the signatures on a political petition described in Subsection ~~[63G-2-305(75)]~~ 63G-2-305(74).

(2) The records custodian of a signature described in Subsection ~~[63G-2-305(76)]~~ 63G-2-305(75) shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration:

## HB0213S01 compared with HB0213

(a) provide a list of the names of registered voters, excluding the names that are classified as private under Title 20A, Chapter 2, Voter Registration; and

(b) except for a signature classified as private under Title 20A, Chapter 2, Voter Registration, permit an individual to view, but not take a copy or other image of, the signature on a voter registration record.

(3) Except for a signature classified as private under Title 20A, Chapter 2, Voter Registration, the records custodian of a signature described in Subsection [~~63G-2-305(77)~~] 63G-2-305(76) shall, upon request, permit an individual to view, but not take a copy or other image of, a signature.

Section 5. Section **63M-7-502** is amended to read:

### **63M-7-502. Definitions.**

~~{ }~~As used in this part:

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

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

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

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

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

(a) a victim;

(b) a dependent of a deceased victim; or

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

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

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

(a) the offender;

(b) the insurance of the offender or the ~~[victim]~~ claimant;

(c) the United States government or any of its agencies, a state or any of its political

## HB0213S01 compared with HB0213

subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

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

(f) workers' compensation;

(g) wage continuation programs of any employer;

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

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

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

(8) (a) "Confidential {victim} record" means a record in the custody of the office that relates to a {victim's} claimant's eligibility for a reparations award.

(b) "Confidential {victim} record" includes:

(i) a reparations claim;

(ii) any correspondence regarding:

(A) the approval or denial of a reparations claim;{

— (iii) any document created for the purpose of determining a victim's eligibility for a reparations award; and

— (iv) any administrative notes related to the approval and} or

(B) the payment of a reparations award{.};

{c) "Confidential victim record" does not include a restitution record;iii) a document submitted to the office in support of a reparations award;

(iv) a medical or mental health treatment plan; and

(v) an investigative report provided to the office by a law enforcement agency.

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

(9) (10) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

## HB0213S01 compared with HB0213

(ii) occurs or is attempted;  
(iii) causes, or poses a substantial threat of causing, bodily injury or death;  
(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is:

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

(b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

~~[(10)]~~ (11) (a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

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

~~[(11)]~~ (12) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

~~[(12)]~~ (13) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

~~[(13)]~~ (14) "Director" means the director of the office.

~~[(14)]~~ (15) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

- (a) convicted of a crime;
- (b) found delinquent; or
- (c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

## HB0213S01 compared with HB0213

~~[(15)]~~ (16) (a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

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

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

~~[(16)]~~ (17) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

~~[(17)]~~ (18) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

~~[(18)]~~ (19) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

~~[(19)]~~ (20) (a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

(b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection ~~[(19)(a)]~~ (20)(a).

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

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

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

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

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

~~[(24)]~~ (25) "Noneconomic detriment" means pain, suffering, inconvenience, physical

## HB0213S01 compared with HB0213

impairment, and other nonpecuniary damage, except as provided in this part.

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

~~(27)~~ "Nonpublic restitution record" means a restitution record that contains a claimant's medical or mental health information.

~~[(26)]~~ ~~(~~27~~;28)~~ "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

~~[(27)]~~ ~~(~~28~~;29)~~ "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

~~[(28)]~~ ~~(~~29~~;30)~~ "Offense" means a violation of Title 76, Utah Criminal Code.

~~[(29)]~~ ~~(~~30~~;31)~~ "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

~~[(30)]~~ ~~(~~31~~;32)~~ "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

~~(33)~~ "Public restitution record" means a restitution record that does not contain a claimant's medical or mental health information.

~~[(31)]~~ ~~(~~32~~;34)~~ "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

~~[(32)]~~ ~~(~~33~~;35)~~ "Reparations claim" means a claimant's request or application made to the office for a reparations award.

~~[(33)]~~ ~~(~~34~~;36)~~ (a) "Reparations officer" means an individual employed by the office to investigate ~~[claims of victims]~~ a claimant's request for reparations and award reparations under this part.

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

~~[(34)]~~ ~~(~~35~~;37)~~ "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

## HB0213S01 compared with HB0213

~~[(35)]~~ ~~(~~36~~~~38~~)~~ (a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

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

~~[(36)]~~ ~~(~~37~~~~39~~)~~ "Restitution" means the same as that term is defined in Section 77-38b-102.

~~(~~38~~~~40~~)~~ (a) "Restitution record" means ~~any~~~~a~~ record ~~of a payment~~~~documenting~~ payments made to, or on behalf of, a claimant by the office that the office relies on to support a restitution request made in accordance with Section 77-38b-205.

(b) "Restitution record" includes:

(i) a notice of restitution;

(ii) ~~any~~~~an~~ itemized list of payments ~~made by the office to, or on behalf of, a claimant;~~

~~(iii) any invoice received from a medical or mental health provider;~~

~~(iv) any receipt;~~

(iii) an invoice, receipt, or bill submitted to the office for reimbursement; and

(~~v~~~~iv~~) any documentation that the office relies on to establish a nexus between an offender's criminally injurious conduct and a reparations award made by the office.

~~[(37)]~~ ~~(~~39~~~~41~~)~~ "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(38)]~~ ~~(~~40~~~~42~~)~~ "Service provider" means an individual or agency who provides a service to a victim claimant for a monetary fee, except attorneys as provided in Section 63M-7-524.

~~[(39)]~~ ~~(~~41~~~~43~~)~~ "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

~~[(40)]~~ ~~(~~42~~~~44~~)~~ "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

~~[(41)]~~ ~~(~~43~~~~45~~)~~ "Strangulation" means any act involving the use of unlawful force or violence that:

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

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

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

## HB0213S01 compared with HB0213

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

[(42)] (~~(44);46~~) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.

[(43)] (~~(45);47~~) (a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

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

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

[(44)] (~~(46);48~~) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 6. Section **63M-7-527** is enacted to read:

### **63M-7-527. Records -- Requirements for release.**

(1) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a confidential ~~{victim records and}~~record, a public restitution ~~{records are not public records and}~~record, and a nonpublic restitution record may only be disclosed as provided in this section.

(2) A confidential ~~{victim}~~record may be provided to:

(a) the ~~{victim}~~claimant who is the subject of the record if the record requested does not contain mental health ~~treatment~~ information; or

(b) the person who submitted the record to the office~~;~~ ~~or~~

~~\_\_\_\_\_ (c) a law enforcement officer or agency;~~

(3) A confidential record may be used in:

(a) a criminal investigation or prosecution when the office suspects that a reparations claim may be fraudulent; or

(b) a subrogation action brought by the office in accordance with Section 63M-7-519.

## HB0213S01 compared with HB0213

(4) (a) The office may disclose a public restitution record for the purpose of carrying out this part.

(b) The office shall disclose a public restitution record to the Board of Pardons and Parole for a restitution matter.

(~~(3)~~5) (a) If the office requests restitution in a criminal case, the office may provide a nonpublic restitution record to the court, the prosecuting attorney, and counsel for the offender.

(b) ~~Before any~~ A person may not:

(i) disseminate a nonpublic restitution record ~~if released, the following information shall be redacted:~~

~~(i) any~~ obtained under this Subsection (5); or

(ii) share a nonpublic restitution record with the offender unless the office and claimant agree, in writing, to the disclosure.

(6) Before the office may disclose a restitution record under Subsection (4) or (5), the office shall redact:

(a) the name, not including the initials, of a minor or an individual who has been the victim of a sexual assault;

(b) the contact information ~~for~~ of a ~~victim~~ claimant or a witness, including a physical address, phone number, or email address;

(~~iii~~c) a ~~victim's~~ claimant's date of birth and social security number; and

(~~iiii~~d) any information that would jeopardize the health or safety of ~~an individual.~~

~~(c) A restitution record provided in accordance with this Subsection (3) may not be further disseminated, including to the offender, unless the office and victim agree in writing to additional dissemination.~~

~~a claimant.~~

Section 7. Section **63M-14-205** is amended to read:

### **63M-14-205. Records.**

(1) The records of the authority and the river commissioner shall be maintained by the authority.

(2) The authority may classify a record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, including a record described in Subsection 63G-2-305[(82)] (81).

## HB0213S01 compared with HB0213

Section 8. Section **63N-16-201** is amended to read:

### **63N-16-201. General Regulatory Sandbox Program -- Application requirements.**

- (1) There is created in the regulatory relief office the General Regulatory Sandbox Program.
- (2) In administering the regulatory sandbox, the regulatory relief office:
  - (a) shall consult with each applicable agency;
  - (b) shall establish a program to enable a person to obtain legal protections and limited access to the market in the state to demonstrate an offering without obtaining a license or other authorization that might otherwise be required;
  - (c) may enter into agreements with or adopt the best practices of corresponding federal regulatory agencies or other states that are administering similar programs; and
  - (d) may consult with businesses in the state about existing or potential proposals for the regulatory sandbox.
- (3)
  - (a) An applicant for the regulatory sandbox may contact the regulatory relief office to request a consultation regarding the regulatory sandbox before submitting an application.
  - (b) The regulatory relief office shall provide relevant information regarding the regulatory sandbox program.
  - (c) The regulatory relief office may provide assistance to an applicant in preparing an application for submission.
- (4) An applicant for the regulatory sandbox shall provide to the regulatory relief office an application in a form prescribed by the regulatory relief office that:
  - (a) confirms the applicant is subject to the jurisdiction of the state;
  - (b) confirms the applicant has established a physical or virtual location in the state, from which the demonstration of an offering will be developed and performed and where all required records, documents, and data will be maintained;
  - (c) contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the regulatory relief office;
  - (d) discloses criminal convictions of the applicant or other participating personnel, if any;
  - (e) contains a description of the offering to be demonstrated, including statements

## HB0213S01 compared with HB0213

regarding:

(i) how the offering is subject to licensing, legal prohibition, or other authorization requirements outside of the regulatory sandbox;

(ii) each law or regulation that the applicant seeks to have waived or suspended while participating in the regulatory sandbox program;

(iii) how the offering would benefit consumers;

(iv) how the offering is different from other offerings available in the state;

(v) what risks might exist for consumers who use or purchase the offering;

(vi) how participating in the regulatory sandbox would enable a successful demonstration of the offering;

(vii) a description of the proposed demonstration plan, including estimated time periods for beginning and ending the demonstration;

(viii) recognition that the applicant will be subject to all laws and regulations pertaining to the applicant's offering after conclusion of the demonstration; and

(ix) how the applicant will end the demonstration and protect consumers if the demonstration fails;

(f) lists each government agency, if any, that the applicant knows regulates the applicant's business; and

(g) provides any other required information as determined by the regulatory relief office.

(5) The regulatory relief office may collect an application fee from an applicant that is set in accordance with Section 63J-1-504.

(6) An applicant shall file a separate application for each offering that the applicant wishes to demonstrate.

(7) After an application is filed, the regulatory relief office shall:

(a) classify, as a protected record, any part of the application that the office determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant in accordance with Subsection 63G-2-305[~~(83)~~] (82);

(b) consult with each applicable government agency that regulates the applicant's business regarding whether more information is needed from the applicant; and

(c) seek additional information from the applicant that the regulatory relief office

## HB0213S01 compared with HB0213

determines is necessary.

(8) No later than five business days after the day on which a complete application is received by the regulatory relief office, the regulatory relief office shall:

(a) review the application and refer the application to each applicable government agency that regulates the applicant's business;

(b) provide to the applicant:

(i) an acknowledgment of receipt of the application; and

(ii) the identity and contact information of each regulatory agency to which the application has been referred for review; and

(c) provide public notice, on the office's website and through other appropriate means, of each law or regulation that the office is considering to suspend or waive under the application.

(9) (a) Subject to Subsections (9)(c) and (9)(g), no later than 30 days after the day on which an applicable agency receives a complete application for review, the applicable agency shall provide a written report to the director of the applicable agency's findings.

(b) The report shall:

(i) describe any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant law or regulation protects against; and

(ii) make a recommendation to the regulatory relief office that the applicant either be admitted or denied entrance into the regulatory sandbox.

(c) (i) The applicable agency may request an additional five business days to deliver the written report by providing notice to the director, which request shall automatically be granted.

(ii) The applicable agency may only request one extension per application.

(d) If the applicable agency recommends an applicant under this section be denied entrance into the regulatory sandbox, the written report shall include a description of the reasons for the recommendation, including why a temporary waiver or suspension of the relevant laws or regulations would potentially significantly harm the health, safety, or financial well-being of consumers or the public and the likelihood of such harm occurring.

(e) If the agency determines that the consumer's or public's health, safety, or financial well-being can be protected through less restrictive means than the existing relevant laws or

## HB0213S01 compared with HB0213

regulations, then the applicable agency shall provide a recommendation of how that can be achieved.

(f) If an applicable agency fails to deliver a written report as described in this Subsection (9), the director shall assume that the applicable agency does not object to the temporary waiver or suspension of the relevant laws or regulations for an applicant seeking to participate in the regulatory sandbox.

(g) Notwithstanding any other provision of this section, an applicable agency may by written notice to the regulatory relief office:

(i) within the 30 days after the day on which the applicable agency receives a complete application for review, or within 35 days if an extension has been requested by the applicable agency, reject an application if the applicable agency determines, in the applicable agency's sole discretion, that the applicant's offering fails to comply with standards or specifications:

(A) required by federal law or regulation; or

(B) previously approved for use by a federal agency; or

(ii) reject an application preliminarily approved by the regulatory relief office, if the applicable agency:

(A) recommended rejection of the application in accordance with Subsection (9)(d) in the agency's written report; and

(B) provides in the written notice under this Subsection (9)(g), a description of the applicable agency's reasons why approval of the application would create a substantial risk of harm to the health or safety of the public, or create unreasonable expenses for taxpayers in the state.

(h) If an applicable agency rejects an application under Subsection (9)(g), the regulatory relief office may not approve the application.

(10) (a) Upon receiving a written report described in Subsection (9), the director shall provide the application and the written report to the advisory committee.

(b) The director may call the advisory committee to meet as needed, but not less than once per quarter if applications are available for review.

(c) After receiving and reviewing the application and each written report, the advisory committee shall provide to the director the advisory committee's recommendation as to whether or not the applicant should be admitted as a sandbox participant under this chapter.

## HB0213S01 compared with HB0213

(d) As part of the advisory committee's review of each written report, the advisory committee shall use the criteria required for an applicable agency as described in Subsection (9).

(11) (a) In reviewing an application and each applicable agency's written report, the regulatory relief office shall consult with each applicable agency and the advisory committee before admitting an applicant into the regulatory sandbox.

(b) The consultation with each applicable agency and the consultation with the advisory committee may include seeking information about whether:

(i) the applicable agency has previously issued a license or other authorization to the applicant; and

(ii) the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant.

(12) In reviewing an application under this section, the regulatory relief office and each applicable agency shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

(13) In reviewing an application under this section, the regulatory relief office shall consider whether:

(a) the applicant's plan will adequately protect consumers from potential harm identified by an applicable agency in the applicable agency's written report;

(b) the risk of harm to consumers is outweighed by the potential benefits to consumers from the applicant's participation in the regulatory sandbox; and

(c) certain state laws or regulations that regulate an offering should not be waived or suspended even if the applicant is approved as a sandbox participant, including applicable antifraud or disclosure provisions.

(14) (a) An applicant becomes a sandbox participant if the regulatory relief office approves the application for the regulatory sandbox and enters into a written agreement with the applicant describing the specific laws and regulations that are waived or suspended as part of participation in the regulatory sandbox.

(b) Notwithstanding any other provision of this chapter, the regulatory relief office may not enter into a written agreement with an applicant that waives or suspends a tax, fee, or

## HB0213S01 compared with HB0213

charge that is administered by the State Tax Commission or that is described in Title 59, Revenue and Taxation.

(15) (a) The director may deny at the director's sole discretion any application submitted under this section for any reason, including if the director determines that the preponderance of evidence demonstrates that suspending or waiving enforcement of a law or regulation would cause a significant risk of harm to consumers or residents of the state.

(b) If the director denies an application submitted under this section, the regulatory relief office shall provide to the applicant a written description of the reasons for not allowing the applicant to be a sandbox participant.

(c) The denial of an application submitted under this section is not subject to:

(i) agency or judicial review; or

(ii) the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(16) The director shall deny an application for participation in the regulatory sandbox described by this section if the applicant or any person who seeks to participate with the applicant in demonstrating an offering has been convicted, entered a plea of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance, for any crime involving significant theft, fraud, or dishonesty if the crime bears a significant relationship to the applicant's or other participant's ability to safely and competently participate in the regulatory sandbox program.

(17) (a) When an applicant is approved for participation in the regulatory sandbox, the director shall provide public notice of the approval on the office's website and through other appropriate means.

(b) The public notice described in Subsection (17)(a) shall state:

(i) the name of the sandbox participant;

(ii) the industries the sandbox participant represents; and

(iii) each law or regulation that is suspended or waived for the sandbox participant as allowed by the regulatory sandbox.

(18) In addition to the information described in Subsection (17), the office shall make the following information available on the office's website and through other appropriate means:

(a) documentation regarding the office's determination and grounds for approving each sandbox participant; and

## **HB0213S01 compared with HB0213**

(b) public notice regarding any sandbox participant's revocation to participate in the regulatory sandbox.

**Section 9. Effective date.**

This bill takes effect on May 1, 2024.