

**CRIME VICTIMS REPARATIONS AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Matt MacPherson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to victim reparations and the Utah Office for Victims of Crimes.

**Highlighted Provisions:**

This bill:

- ▶ permits the Utah Office for Victims of Crimes to establish the option to award a lump sum payment for a crime-related death or disability through administrative rule;
- ▶ requires law enforcement agencies to provide copies of investigative reports to the Utah Office for Victims of Crimes to assist the office in performing its official duties;
- ▶ establishes timelines, procedures, and sharing restrictions in relation to the request and provision of documents;
- ▶ establishes a criminal penalty for unauthorized use or distribution of an investigative report; and
- ▶ makes conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63M-7-502**, as last amended by Laws of Utah 2022, Chapters 148, 185 and 430

31 **63M-7-511**, as last amended by Laws of Utah 2023, Chapter 158

32 **77-37-4**, as last amended by Laws of Utah 2022, Chapter 335

33 ENACTS:

34 **63M-7-527**, Utah Code Annotated 1953

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

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

38 **63M-7-502. Definitions.**

39 As used in this part:

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

42 (2) "Advocacy services provider" means the same as that term is defined in Section  
43 **77-38-403**.

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

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

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

49 (a) a victim;

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

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

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

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

56 (a) the offender;

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

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

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

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

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

64 (f) workers' compensation;

65 (g) wage continuation programs of any employer;

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

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

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

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

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

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

76 (ii) occurs or is attempted;

77 (iii) causes, or poses a substantial threat of causing, bodily injury or death;

78 (iv) is punishable by fine, imprisonment, or death if the individual engaging in the  
79 conduct possessed the capacity to commit the conduct; and

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

82 (A) intended to cause bodily injury or death;

83 (B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or

84 (C) chargeable as an offense for driving under the influence of alcohol or drugs.

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

88 (10) (a) "Dependent" means a natural person to whom the victim is wholly or partially  
89 legally responsible for care or support.

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

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

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

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

101 (14) "Disposition" means the sentencing or determination of penalty or punishment to  
102 be imposed upon an individual:

103 (a) convicted of a crime;

104 (b) found delinquent; or

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

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

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

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

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

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

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

119 (19) (a) "Interpersonal violence" means an act involving violence, physical harm, or a  
120 threat of violence or physical harm, that is committed by an individual who is or has been in a

121 domestic, dating, sexual, or intimate relationship with the victim.

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

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

127 [~~(20)~~] (21) "Law enforcement officer" means the same as that term is defined in  
128 Section 53-13-103.

129 [~~(21)~~] (22) (a) "Medical examination" means a physical examination necessary to  
130 document criminally injurious conduct.

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

133 [~~(22)~~] (23) "Mental health counseling" means outpatient and inpatient counseling  
134 necessitated as a result of criminally injurious conduct, is subject to rules made by the board in  
135 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

136 [~~(23)~~] (24) "Misconduct" means conduct by the victim that was attributable to the  
137 injury or death of the victim as provided by rules made by the board in accordance with Title  
138 63G, Chapter 3, Utah Administrative Rulemaking Act.

139 [~~(24)~~] (25) "Noneconomic detriment" means pain, suffering, inconvenience, physical  
140 impairment, and other nonpecuniary damage, except as provided in this part.

141 [~~(25)~~] (26) "Nongovernment organization victim advocate" means the same as that  
142 term is defined in Section 77-38-403.

143 [~~(26)~~] (27) "Pecuniary loss" does not include loss attributable to pain and suffering  
144 except as otherwise provided in this part.

145 [~~(27)~~] (28) "Offender" means an individual who has violated Title 76, Utah Criminal  
146 Code, through criminally injurious conduct regardless of whether the individual is arrested,  
147 prosecuted, or convicted.

148 [~~(28)~~] (29) "Offense" means a violation of Title 76, Utah Criminal Code.

149 [~~(29)~~] (30) "Office" means the director, the reparations and assistance officers, and any  
150 other staff employed for the purpose of carrying out the provisions of this part.

151 [~~(30)~~] (31) "Perpetrator" means the individual who actually participated in the

152 criminally injurious conduct.

153 ~~[(31)]~~ (32) "Reparations award" means money or other benefits provided to a claimant  
154 or to another on behalf of a claimant after the day on which a reparations claim is approved by  
155 the office.

156 ~~[(32)]~~ (33) "Reparations claim" means a claimant's request or application made to the  
157 office for a reparations award.

158 ~~[(33)]~~ (34) (a) "Reparations officer" means an individual employed by the office to  
159 investigate claims of victims and award reparations under this part.

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

162 ~~[(34)]~~ (35) "Replacement service loss" means expenses reasonably and necessarily  
163 incurred in obtaining ordinary and necessary services in lieu of those the injured individual  
164 would have performed, not for income but the benefit of the injured individual or the injured  
165 individual's dependents if the injured individual had not been injured.

166 ~~[(35)]~~ (36) (a) "Representative" means the victim, immediate family member, legal  
167 guardian, attorney, conservator, executor, or an heir of an individual.

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

169 ~~[(36)]~~ (37) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

170 ~~[(37)]~~ (38) "Secondary victim" means an individual who is traumatically affected by  
171 the criminally injurious conduct subject to rules made by the board in accordance with Title  
172 63G, Chapter 3, Utah Administrative Rulemaking Act.

173 ~~[(38)]~~ (39) "Service provider" means an individual or agency who provides a service to  
174 a victim for a monetary fee, except attorneys as provided in Section [63M-7-524](#).

175 ~~[(39)]~~ (40) "Serious bodily injury" means the same as that term is defined in Section  
176 [76-1-101.5](#).

177 ~~[(40)]~~ (41) "Sexual assault" means any criminal conduct described in Title 76, Chapter  
178 5, Part 4, Sexual Offenses.

179 ~~[(41)]~~ (42) "Strangulation" means any act involving the use of unlawful force or  
180 violence that:

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

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

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

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

185 [~~42~~] (43) "Substantial bodily injury" means the same as that term is defined in

186 Section 76-1-101.5.

187 [~~43~~] (44) (a) "Victim" means an individual who suffers bodily or psychological injury  
188 or death as a direct result of:

189 (i) criminally injurious conduct; or

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

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

195 [~~44~~] (45) "Work loss" means loss of income from work the injured victim would  
196 have performed if the injured victim had not been injured and expenses reasonably incurred by  
197 the injured victim in obtaining services in lieu of those the injured victim would have  
198 performed for income, reduced by any income from substitute work the injured victim was  
199 capable of performing but unreasonably failed to undertake.

200 Section 2. Section 63M-7-511 is amended to read:

201 **63M-7-511. Compensable losses and amounts.**

202 A reparations award under this part may be made if:

203 (1) the reparations officer finds the reparations claim satisfies the requirements for the  
204 reparations award under the provisions of this part and the rules of the board;

205 (2) money is available in the fund;

206 (3) the individual for whom the reparations award is to be paid is otherwise eligible  
207 under this part; and

208 (4) the reparations claim is for an allowable expense incurred by the victim, as follows:

209 (a) reasonable and necessary charges incurred for products, services, and  
210 accommodations;

211 (b) inpatient and outpatient medical treatment and physical therapy, subject to rules  
212 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
213 Act;

214 (c) mental health counseling that:  
215 (i) is set forth in a mental health treatment plan that is approved before any payment is  
216 made by a reparations officer; and  
217 (ii) qualifies within any further rules made by the board in accordance with Title 63G,  
218 Chapter 3, Utah Administrative Rulemaking Act;  
219 (d) actual loss of past earnings and anticipated loss of future earnings because of a  
220 death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the  
221 individual's weekly gross salary or wages or the maximum amount allowed under the state  
222 workers' compensation statute;  
223 (e) a lump sum award in the event of a crime-related death or disability, as established  
224 by the board in administrative rule;  
225 [~~e~~] (f) care of minor children enabling a victim or spouse of a victim, but not both, to  
226 continue gainful employment at a rate per child per week as determined under rules established  
227 by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;  
228 [~~f~~] (g) funeral and burial expenses for death caused by the criminally injurious  
229 conduct, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah  
230 Administrative Rulemaking Act;  
231 [~~g~~] (h) loss of support to a dependent not otherwise compensated for a pecuniary loss  
232 for personal injury, for as long as the dependence would have existed had the victim survived,  
233 at a rate not to exceed 66-2/3% of the individual's weekly salary or wages or the maximum  
234 amount allowed under the state workers' compensation statute, whichever is less;  
235 [~~h~~] (i) personal property necessary and essential to the health or safety of the victim  
236 as defined by rules made by the board in accordance with Title 63G, Chapter 3, Utah  
237 Administrative Rulemaking Act;  
238 [~~i~~] (j) medical examinations, subject to rules made by the board in accordance with  
239 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions  
240 from Sections 63M-7-509, 63M-7-512, and 63M-7-513; and  
241 [~~j~~] (k) for a victim of sexual assault who becomes pregnant from the sexual assault,  
242 health care:  
243 (i) for the victim during the duration of the victim's pregnancy if the health care is  
244 related to or resulting from the sexual assault or the pregnancy; and

245 (ii) for the victim and the victim's child for one year after the day on which the victim's  
246 child is born.

247 Section 3. Section **63M-7-527** is enacted to read:

248 **63M-7-527. Determination of eligibility for victim reparations -- Law enforcement**  
249 **agency to provide investigative reports -- Restrictions on usage -- Criminal penalty.**

250 (1) (a) Notwithstanding Section 63G-2-206, a law enforcement agency shall provide a  
251 complete copy of an investigative report to the office within five business days of the date the  
252 office requests a copy of the report.

253 (b) The investigative report provided to the office shall:

254 (i) provide sufficient information for the office to determine whether a victim is  
255 eligible for a reparations award; and

256 (ii) include all supplemental or follow-up reports written as of the date of production of  
257 the report.

258 (c) A law enforcement agency may not refuse to release an investigative report on the  
259 grounds that the matter is under investigation.

260 (2) (a) An investigative report provided under this section may only be used for the  
261 purpose of carrying out the provisions of this part.

262 (b) An investigative report received under this section:

263 (i) may only be viewed by the office, the board, and legal counsel for the office; and

264 (ii) may not be further disclosed or disseminated for any reason.

265 (3) The office shall dispose of or retain an investigative report received under this  
266 section in a secure manner.

267 (4) An investigative report provided to the office under this section is not subject to the  
268 provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

269 (5) A public employee or other person who knowingly or intentionally uses or  
270 distributes an investigative report, or information received from an investigative report, in  
271 violation of the requirements of Subsection (2) is guilty of a class B misdemeanor.

272 Section 4. Section **77-37-4** is amended to read:

273 **77-37-4. Additional rights -- Children.**

274 In addition to all rights afforded to victims and witnesses under this chapter, child  
275 victims and witnesses shall be afforded these rights:

276 (1) Children have the right to protection from physical and emotional abuse during  
277 their involvement with the criminal justice process.

278 (2) Children are not responsible for inappropriate behavior adults commit against them  
279 and have the right not to be questioned, in any manner, nor to have allegations made, implying  
280 this responsibility. Those who interview children have the responsibility to consider the  
281 interests of the child in this regard.

282 (3) Child victims and witnesses have the right to have interviews relating to a criminal  
283 prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they  
284 are conducted by persons sensitive to the needs of children.

285 (4) Child victims have the right to be informed of available community resources that  
286 might assist them and how to gain access to those resources. Law enforcement and prosecutors  
287 have the duty to ensure that child victims are informed of community resources, including  
288 counseling prior to the court proceeding, and have those services available throughout the  
289 criminal justice process.

290 (5) (a) Child victims have the right, once an investigation has been initiated by law  
291 enforcement or the Division of Child and Family Services, to keep confidential their interviews  
292 that are conducted at a Children's Justice Center, including video and audio recordings, and  
293 transcripts of those recordings. Except as provided in Subsection (6), recordings and  
294 transcripts of interviews may not be distributed, released, or displayed to anyone without a  
295 court order.

296 (b) A court order described in Subsection (5)(a):

297 (i) shall describe with particularity to whom the recording or transcript of the interview  
298 may be released and prohibit further distribution or viewing by anyone not named in the order;  
299 and

300 (ii) may impose restrictions on access to the materials considered reasonable to protect  
301 the privacy of the child victim.

302 (c) A parent or guardian of the child victim may petition a juvenile or district court for  
303 an order allowing the parent or guardian to view a recording or transcript upon a finding of  
304 good cause. The order shall designate the agency that is required to display the recording or  
305 transcript to the parent or guardian and shall prohibit viewing by anyone not named in the  
306 order.

307 (d) Following the conclusion of any legal proceedings in which the recordings or  
308 transcripts are used, the court shall order the recordings and transcripts in the court's file sealed  
309 and preserved.

310 (6) (a) The following offices and their designated employees may distribute and receive  
311 a recording or transcript to and from one another without a court order:

312 (i) the Division of Child and Family Services;

313 (ii) administrative law judges employed by the Department of Human Services;

314 (iii) Department of Human Services investigators investigating the Division of Child  
315 and Family Services or investigators authorized to investigate under Section 80-2-703;

316 (iv) an office of the city attorney, county attorney, district attorney, or attorney general;

317 (v) a law enforcement agency;

318 (vi) a Children's Justice Center established under Section 67-5b-102; or

319 (vii) the attorney for the child who is the subject of the interview.

320 (b) In a criminal case or in a juvenile court in which the state is a party:

321 (i) the parties may display and enter into evidence a recording or transcript in the  
322 course of a prosecution;

323 (ii) the state's attorney may distribute a recording or transcript to the attorney for the  
324 defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for  
325 discovery;

326 (iii) the attorney for the defendant or respondent may do one or both of the following:

327 (A) release the recording or transcript to an expert retained by the attorney for the  
328 defendant or respondent if the expert agrees in writing that the expert will not distribute,  
329 release, or display the recording or transcript to anyone without prior authorization from the  
330 court; or

331 (B) permit the defendant or respondent to view the recording or transcript, but may not  
332 distribute or release the recording or transcript to the defendant or respondent; and

333 (iv) the court shall advise a pro se defendant or respondent that a recording or  
334 transcript received as part of discovery is confidential and may not be distributed, released, or  
335 displayed without prior authorization from the court.

336 (c) A court's failure to advise a pro se defendant or respondent that a recording or  
337 transcript received as part of discovery is confidential and may not be used as a defense to

338 prosecution for a violation of the disclosure rule.

339 (d) In an administrative case, pursuant to a written request, the Division of Child and  
340 Family Services may display, but may not distribute or release, a recording or transcript to the  
341 respondent or to the respondent's designated representative.

342 (e) (i) Within two business days of a request from a parent or guardian of a child  
343 victim, an investigative agency shall allow the parent or guardian to view a recording after the  
344 conclusion of an interview, unless:

345 (A) the suspect is a parent or guardian of the child victim;

346 (B) the suspect resides in the home with the child victim; or

347 (C) the investigative agency determines that allowing the parent or guardian to view  
348 the recording would likely compromise or impede the investigation.

349 (ii) If the investigative agency determines that allowing the parent or guardian to view  
350 the recording would likely compromise or impede the investigation, the parent or guardian may  
351 petition a juvenile or district court for an expedited hearing on whether there is good cause for  
352 the court to enter an order allowing the parent or guardian to view the recording in accordance  
353 with Subsection (5)(c).

354 (iii) A Children's Justice Center shall coordinate the viewing of the recording described  
355 in this Subsection (6)(e).

356 (f) A multidisciplinary team assembled by a Children's Justice Center or an  
357 interdisciplinary team assembled by the Division of Child and Family Services may view a  
358 recording or transcript, but may not receive a recording or transcript.

359 (g) A Children's Justice Center:

360 (i) may distribute or display a recording or transcript to an authorized trainer or  
361 evaluator for purposes of training or evaluation; and

362 (ii) may display, but may not distribute, a recording or transcript to an authorized  
363 trainee.

364 (h) An authorized trainer or instructor may display a recording or transcript according  
365 to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center  
366 or according to the authorized trainer's or instructor's scope of employment.

367 (i) (i) In an investigation under Section [53E-6-506](#), in which a child victim who is the  
368 subject of the recording or transcript has alleged criminal conduct against an educator, a law

369 enforcement agency may distribute or release the recording or transcript to an investigator  
370 operating under State Board of Education authorization, upon the investigator's written request.

371 (ii) If the respondent in a case investigated under Section 53E-6-506 requests a hearing  
372 authorized under that section, the investigator operating under State Board of Education  
373 authorization may display, release, or distribute the recording or transcript to the prosecutor  
374 operating under State Board of Education authorization or to an expert retained by an  
375 investigator.

376 (iii) Upon request for a hearing under Section 53E-6-506, a prosecutor operating under  
377 State Board of Education authorization may display the recording or transcript to a pro se  
378 respondent, to an attorney retained by the respondent, or to an expert retained by the  
379 respondent.

380 (iv) The parties to a hearing authorized under Section 53E-6-506 may display and enter  
381 into evidence a recording or transcript in the course of a prosecution.

382 (j) Notwithstanding any other provision in this section, a law enforcement agency shall  
383 provide an investigative report to the Utah Office for Victims of Crime as provided under  
384 Section 63M-7-527.

385 (7) Except as otherwise provided in this section, it is a class B misdemeanor for any  
386 individual to distribute, release, or display any recording or transcript of an interview of a child  
387 victim conducted at a Children's Justice Center.

388 Section 5. **Effective date.**

389 This bill takes effect on May 1, 2024.