

HB0308S01 compared with HB0308

~~{deleted text}~~ shows text that was in HB0308 but was deleted in HB0308S01.

inserted text shows text that was not in HB0308 but was inserted into HB0308S01.

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Representative Tyler Clancy proposes the following substitute bill:

CRIME VICTIM AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: ~~{}~~Tyler Clancy

Senate Sponsor: ~~{}~~Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to victims of crime.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Utah Office for Victims of Crime to provide a law enforcement agency with educational materials regarding sexual assault victims;
- ~~{~~ → provides that the Utah Council on Victims of Crime is within the State Commission on Criminal and Juvenile Justice;
- ~~}~~ ▶ amends the duties~~{ and membership}~~ of the Utah Council on Victims of Crime;
- ▶ creates a victim rights committee in each judicial district of the state;
- ▶ establishes the membership of a victim rights committee;

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~~{~~ → amends the Utah Council on Victims of Crime;

- ~~}~~ ▶ requires the executive director of the State Commission on Criminal and Juvenile Justice to appoint a ~~{council}~~ committee coordinator ~~{for the Utah Council on Victims of Crime}~~;
- ▶ provides the duties of the ~~{council}~~ committee coordinator ~~{for the Utah Council on Victims of Crime}~~;
- ▶ creates a process for submitting a complaint alleging a violation of a victim's right;
- ▶ clarifies the relief that a victim may seek from a court for a violation of a victim's right;
- ▶ clarifies that a defendant may not seek relief from a court for a violation of victim's rights;
- ▶ repeals a statute on district victims' rights committees; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

~~{~~ → ~~**63M-7-602**, as last amended by Laws of Utah 2021, Chapter 172~~

~~}~~ **63M-7-603**, as last amended by Laws of Utah 2021, Chapter 172

77-38-11, as last amended by Laws of Utah 2010, Chapter 331

ENACTS:

63M-7-506.5, Utah Code Annotated 1953

~~{63M-7-601.1}~~ **63M-7-1001**, Utah Code Annotated 1953

~~{63M-7-601.7}~~ **63M-7-1002**, Utah Code Annotated 1953

~~{63M-7-606}~~ **63M-7-1003**, Utah Code Annotated 1953

~~{REPEALS AND REENACTS:~~

~~}~~ ~~**63M-7-605**, as last amended by Laws of Utah 2021, Chapter 172~~

~~RENUMBERS AND AMENDS:~~

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~~63M-7-601.5, (Renumbered from 63M-7-601, as last amended by Laws of Utah 2023, Chapter 150);~~ 63M-7-1004, Utah Code Annotated 1953

REPEALS:

77-37-5, as last amended by Laws of Utah 2023, Chapter 237

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

Section 1. 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 from:
 - (a) the offender;
 - (b) the insurance of the offender or the victim;
 - (c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;
 - (d) social security, Medicare, and Medicaid;

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

(9) (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;

(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) (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) "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

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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) "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) "Director" means the director of the office.

(14) "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.

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

(17) "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) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(19) (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).

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

~~[(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 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.

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

~~[(27)]~~ (28) "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) "Offense" means a violation of Title 76, Utah Criminal Code.

~~[(29)]~~ (30) "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) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

~~[(31)]~~ (32) "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

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the office.

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

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

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

~~[(34)]~~ (35) "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.

~~[(35)]~~ (36) (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) "Restitution" means the same as that term is defined in Section 77-38b-102.

~~[(37)]~~ (38) "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)]~~ (39) "Service provider" means an individual or agency who provides a service to a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

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

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

~~[(41)]~~ (42) "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

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

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

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Section 76-1-101.5.

~~[(43)]~~ (44) (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)]~~ (45) "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 2. Section **63M-7-506.5** is enacted to read:

63M-7-506.5. Duties of the office.

The office shall provide educational materials to a law enforcement agency to assist the law enforcement agency with informing a victim of a sexual assault of the victim's right to request testing of the victim and of the offender alleged to have committed the sexual assault as described in Section 53-10-802.

Section 3. Section ~~{63M-7-601.1}~~ **63M-7-603** is amended to read:

63M-7-603. Duties of the council.

(1) The council shall:

(a) make recommendations to the Legislature, the governor, and the Judicial Council on the following:

(i) enforcing existing rights of victims of crime;

(ii) enhancing rights of victims of crime;

(iii) the role of victims of crime in the criminal justice system;

(iv) victim restitution;

(v) educating and training criminal justice professionals on the rights of victims of crime; and

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(vi) enhancing services to victims of crimes; and

(b) provide training on the rights of victims of crime[; and].

[(c) establish a subcommittee to consider complaints not resolved by the Victims'

Rights Committee established in Section 77-37-5.]

(2) The council:

(a) shall advocate the adoption, repeal, or modification of laws or proposed legislation in the interest of victims of crime;

(b) subject to court rules and the governor's approval, may advocate in appellate courts on behalf of a victim of crime as described in Subsection 77-38-11(2)(a)(ii); and

(c) may establish additional subcommittees to assist in accomplishing its duties[; and].

[(d) shall select and appoint individuals in accordance with Section 77-37-5 to act as chairpersons of the judicial district victims' rights committees and provide assistance to the committees in their operations.]

Section 4. Section 63M-7-1001 is enacted to read:

Part 10. Victim Rights Committees

~~{63M-7-601.1}~~63M-7-1001. Definitions.

As used in this part:

(1) "Committee" means a victim rights committee established in each judicial district as described in Section ~~{63M-7-601.7}~~63M-7-1002.

(2) "~~{Council}~~Victim Services Commission" means the Utah ~~{Council on Victims of Crime}~~Victim Services Commission established in Section ~~{63M-7-601.5}~~63M-7-902.

(3) (a) "Criminal justice agency" means an agency that is directly involved in the apprehension, prosecution, incarceration, or supervision of an individual involved in criminal conduct.

(b) "Criminal justice agency" includes:

(i) a law enforcement agency as defined in Section 63M-7-502;

(ii) a prosecuting agency;

(iii) the Department of Corrections created in Section 64-13-2; or

(iv) the Board of Pardons and Parole created in Section 77-27-2.

(4) "Member" means an individual appointed to ~~{the council or to }~~a committee.

(5) "Representative of a victim" means the same as that term is defined in Section

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77-38-2.

~~{ (6) "Subcommittee" means a subcommittee of the council that is established to assist the council in accomplishing the council's duties.~~

~~‡ (7) (a) "Victim" means an individual against whom criminal conduct has allegedly been committed.~~

~~(b) "Victim" does not include an individual who is an accomplice or codefendant to criminal conduct.~~

~~(8) "Victim advocate" means the same as that term is defined in Section 77-37-403.~~

~~(9) "Victim's rights" means the rights afforded to a victim under Title 77, Chapter 37, Victims' Rights, Title 77, Chapter 38, Crime Victims, and Utah Constitution, Article I, Section 28.~~

~~{ Section 4. Section 63M-7-601.5, which is renumbered from Section 63M-7-601 is renumbered and amended to read:~~

~~—— [63M-7-601]. —— 63M-7-601.5. Creation -- Members -- Chair.~~

~~—— (1) There is created [within the governor's office] the Utah Council on Victims of Crime within the commission.~~

~~—— (2) The council is composed of [28] 27 voting members as follows:~~

~~—— (a) a representative of the [State Commission on Criminal and Juvenile Justice] commission, appointed by the executive director of the commission;~~

~~—— (b) a representative of the Department of Corrections, appointed by the executive director of the Department of Corrections;~~

~~—— (c) a representative of the Board of Pardons and Parole, appointed by the chair of the Board of Pardons and Parole;~~

~~—— (d) a representative of the Department of Public Safety, appointed by the commissioner of the Department of Public Safety;~~

~~—— (e) a representative of the Division of Juvenile Justice Services, appointed by the director of the Division of Juvenile Justice Services;~~

~~—— (f) a representative of the Utah Office for Victims of Crime, appointed by the director of the Utah Office for Victims of Crime;~~

~~—— (g) a representative of the Office of the Attorney General, appointed by the attorney general;~~

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- ~~_____ (h) a representative of the United States [Attorney for the district] Attorney's Office for the District of Utah, appointed by the United States Attorney;~~
- ~~_____ (i) a representative of Utah's Native American community, appointed by the director of the Division of Indian Affairs after input from federally recognized tribes in Utah;~~
- ~~_____ [(j)] a professional or volunteer working in the area of violence against women and families appointed by the governor;]~~
- ~~_____ [(k)] [(j)] a representative of the Department of Health and Human Services Violence and Injury Prevention Program, appointed by the program's manager;~~
- ~~_____ [(l)] [(k)] the chair of each [judicial district's victims' rights] committee;~~
- ~~_____ [(m)] [(l)] a representative of the Statewide Association of Prosecutors and Public Attorneys, appointed by the executive director of that association;~~
- ~~_____ [(n)] [(m)] a representative of the Utah Chiefs of Police Association, appointed by the president of that association;~~
- ~~_____ [(o)] [(n)] a representative of the Utah Sheriffs' Association, appointed by the president of that association;~~
- ~~_____ [(p)] [(o)] a representative of [a Children's Justice Center] Children's Justice Centers, appointed by the attorney general;~~
- ~~_____ [(q)] [(p)] [the director of] a representative from the Division of Child and Family Services [or that individual's designee], appointed by the director of the Division of Child and Family Services;~~
- ~~_____ [(r)] [(q)] [the chair] a representative of the Utah Victim Services Commission [or the chair's designee], appointed by the chair of the Utah Victim Services Commission; and~~
- ~~_____ [(s)] [(r)] the following [members] individuals, appointed by the members described in Subsections (2)(a) through [(2)(r) to serve four-year terms] (2)(q):~~
 - ~~_____ (i) an individual who engages in community based advocacy;~~
 - ~~_____ (ii) a citizen representative; and~~
 - ~~_____ (iii) a citizen representative who has been a victim [of crime].~~
- ~~_____ (3) The council shall annually elect:~~
 - ~~_____ (a) one member of the council to serve as chair, and~~
 - ~~_____ (b) one member of the council to serve as vice-chair[; and];~~
 - ~~_____ [(c) one member to serve as treasurer.]~~

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‡ Section 5. Section ~~{63M-7-601.7}~~ 63M-7-1002 is enacted to read:

~~{63M-7-601.7}~~ 63M-7-1002. **Victim rights committee for each judicial district --**

Members -- Terms.

(1) There is created a victim rights committee in each judicial district of this state.

(2) The ~~{council}~~ Victim Services Commission shall appoint a chair to serve on each committee.

(3) The chair shall appoint, with the ~~{council's}~~ Victim Services Commission's consent, the following individuals to serve on each committee:

(a) a county or district attorney within the judicial district, or the county or district attorney's designee;

(b) a municipal attorney within the judicial district, or the municipal attorney's designee;

(c) a sheriff within the judicial district, or the sheriff's designee;

(d) a chief of police within the judicial district, or the chief of police's designee;

(e) a representative of the Division of Adult Probation and Parole within the

Department of Corrections;

(f) a victim advocate; and

(g) any other representative as appropriate.

~~{Section 6. Section 63M-7-602 is amended to read:~~

~~63M-7-602. Reappointment to the council or a committee -- Vacancies:~~

~~(1) A member of the council or a committee is:~~

~~(a)}~~ (4) A member is:

(a) appointed to serve a four-year term ~~{[is]}~~; and

(b) eligible for reappointment.

~~{2}~~5) When a vacancy occurs in the membership of a committee for any reason, the replacement shall be appointed for the remainder of the unexpired term. ‡

~~Section 7}~~

(6) A member may not receive compensation or benefits for the member's service, but a member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 6. Section ~~{63M-7-603}~~63M-7-1003 is ~~{amended}~~enacted to read:

~~{63M-7-603}~~63M-7-1003. Duties of the council.

~~— [(1)] The council shall:~~

~~— [(a)] (1) make recommendations to the Legislature, the governor, and the Judicial Council on the following:~~

~~— [(i)] (a) enforcing [existing rights of victims of crime] a victim's rights;~~

~~— [(ii)] (b) enhancing [rights of victims of crime] a victim's rights;~~

~~— [(iii)] (c) the role of victims [of crime] in the criminal and juvenile justice system;~~

~~— [(iv)] (d) victim restitution;~~

~~— [(v)] (e) educating and training criminal and juvenile justice professionals on [the rights of victims of crime] a victim's rights; and~~

~~— [(vi)] (f) enhancing services to victims [of crimes];~~

~~— [(b)] (2) provide training on [the rights of victims of crime; and] a victim's rights; and~~

~~— (3) advocate for changes to the law, or for proposed legislation, in the interest of victims;~~

~~— [(c) establish a subcommittee to consider complaints not resolved by the Victims' Rights Committee established in Section 77-37-5.]~~

~~— [(2)] (4) The council may:~~

~~— (a) advocate for a victim's rights in an appellate court;~~

~~— (b) establish a subcommittee;~~

~~— (c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the process by which a victim, or a representative of a victim, may submit a complaint alleging a violation of the victim's rights; and~~

~~— (d) review any action taken by a committee under Subsection 63M-7-606(6);~~

~~— [(a) shall advocate the adoption, repeal, or modification of laws or proposed legislation in the interest of victims of crime;]~~

~~— [(b) subject to court rules and the governor's approval, may advocate in appellate courts on behalf of a victim of crime as described in Subsection 77-38-11(2)(a)(ii);]~~

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~~[(c) may establish additional subcommittees to assist in accomplishing its duties; and]~~

~~[(d) shall select and appoint individuals in accordance with Section 77-37-5 to act as chairpersons of the judicial district victims' rights committees and provide assistance to the committees in their operations.]~~

~~Section 8. Section 63M-7-605 is repealed and reenacted to read:~~

~~63M-7-605. Staff for the council -- Council coordinator}~~ **Committee coordinator**
-- Duties.

(1) The executive director of the commission shall appoint an individual to serve as the ~~{council}~~**committee** coordinator ~~{for the council}~~.

(2) The ~~{council}~~**committee** coordinator shall:

(a) provide administrative assistance to ~~{the council, a subcommittee, and}~~ each committee;

(b) schedule meetings for ~~{the council, a subcommittee, and}~~ each committee; and

(c) receive and process complaints as described in Section ~~{63M-7-606}~~**63M-7-1004**.

Section ~~{9}~~**7**. Section ~~{63M-7-606}~~**63M-7-1004** is enacted to read:

63M-7-606**63M-7-1004**. **Complaint of violation of victim rights -- Criminal justice agency policy about complaints.**

(1) When the ~~{council}~~**committee** coordinator receives a complaint, the ~~{council}~~**committee** coordinator shall review the complaint to determine whether the complaint alleges a violation of a victim's rights.

(2) (a) If the complaint does not allege a violation of a victim's rights, the ~~{council}~~**committee** coordinator shall send a letter to the victim, or the representative of a victim:

(i) explaining that the committee may only address a violation of the victim's ~~{right}~~**rights**; and

(ii) describing any other resources that may be available to the victim or the representative of the victim.

(b) The ~~{council}~~**committee** coordinator shall send the letter described in Subsection (2)(a) within 30 days after the day on which the ~~{council}~~**committee** coordinator receives the complaint.

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(3) If the complaint does allege a violation of a victim's rights, the ~~fcouncil~~committee coordinator shall forward:

(a) the complaint to the committee of the judicial district where the violation allegedly occurred; and

(b) a copy of the complaint to the person that is the subject of the complaint.

(4) The ~~fcouncil~~committee coordinator shall schedule a meeting for the committee to review the complaint as soon as practicable.

(5) If a criminal justice agency investigates a complaint regarding a violation of a victim's rights and the committee receives a complaint about the same violation, the criminal justice agency shall provide the criminal justice agency's investigative findings related to the complaint to the committee.

(6) After reviewing the complaint and any findings submitted by a criminal justice agency under Subsection (5), the committee may:

~~{ (a) make recommendations to the person alleged to have violated a victim's rights regarding a victim's rights and the obligations of the person;~~

~~{ (b)a} inform the person of a victim's rights and the obligations required by law;~~

~~{ (c)b} refer the victim, or the representative of a victim, to other resources in the community; or~~

~~{ (d)c} inform the victim, or the representative of a victim, of the victim's rights and remedies described in Title 77, Chapter 37, Victims' Rights, Title 77, Chapter 38, Crime Victims, and Utah Constitution, Article I, Section 28.~~

(7) Within 30 days after the day on which the committee meeting is held, the chair of the committee shall send a letter to the victim, or the representative of a victim, describing any action taken by the committee.

(8) A criminal justice agency shall establish a policy for addressing a complaint alleging a violation of a victim's rights.

Section ~~{10}8~~. Section 77-38-11 is amended to read:

77-38-11. Enforcement -- Appellate review -- No right to money damages.

(1) If a person acting under color of state law allegedly violates the rights of a victim described in this chapter, Chapter 37, Victims' Rights, or Utah Constitution, Article I, Section 28, the victim, or a representative of a victim, may file a complaint with a victim rights

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committee as described in Section ~~63M-7-606~~63M-7-1004.

~~[(1)]~~ (2) If a person acting under color of state law willfully or wantonly fails to perform duties so that the rights in this chapter are not provided, an action for injunctive relief, including prospective injunctive relief, may be brought against the individual and the governmental entity that employs the individual.

~~[(2)]~~ (3) (a) The victim of a crime or representative of a victim of a crime ~~[, including any Victims' Rights Committee as defined in Section 77-37-5]~~ may:

(i) bring an action for declaratory relief or for a writ of mandamus defining or enforcing the rights of victims and the obligations of government entities under this chapter;

(ii) petition to file an amicus brief in any court in any case affecting crime victims; and

(iii) after giving notice to the prosecution and the defense, seek an appropriate remedy for a violation of a victim's right from the ~~[judge]~~ court assigned to the case involving the issue ~~[as provided in Section 77-38-11]~~.

(b) Adverse rulings on these actions or on a motion or request brought by a victim of a crime or a representative of a victim of a crime may be appealed under the rules governing appellate actions, provided that an appeal may not constitute grounds for delaying any criminal or juvenile proceeding.

(c) An appellate court shall review all properly presented issues, including issues that are capable of repetition but would otherwise evade review.

~~[(3)]~~ (4) (a) Upon a showing that the victim has not unduly delayed in seeking to protect the victim's right, and after hearing from the prosecution and the defense, the ~~[judge]~~ court shall determine whether a right of the victim has been violated.

(b) If the ~~[judge]~~ court determines that a victim's right has been violated, the ~~[judge shall proceed to]~~ the court shall:

(i) determine the appropriate remedy for the violation of the victim's right by hearing from the victim and the parties~~;~~ and considering all factors relevant to the issue~~;~~ and then awarding]; and

(ii) award an appropriate remedy to the victim.

(5) (a) The court shall ~~[(1)]~~:

(i) reconsider any judicial decision or judgment affected by a violation of the victim's right; and

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(ii) [~~determine whether,~~] upon affording the victim the right and further hearing from the prosecution and the defense, determine whether the decision or judgment would have been different.

(b) If the court's decision or judgment would have been different, the court shall enter the new different decision or judgment as the appropriate remedy.

(c) If necessary to protect the victim's right, [~~the new decision or judgment shall be entered~~] the court shall enter the new decision or judgment nunc pro tunc to the time the first decision or judgment was reached.

(d) In no event shall the appropriate remedy be a new trial, damages, attorney fees, or costs.

~~(e)~~ (6) (a) The appropriate remedy under Subsection (4) or (5) shall include only actions necessary to provide the victim the right to which the victim was entitled [~~and~~].

(b) The appropriate remedy under Subsection (4) or (5) may include reopening previously held proceedings.

(7) (a) Subject to Subsection [~~(3)(d)~~] (7)(c), the court may reopen a sentence or a previously entered guilty or no contest plea only if [~~doing so~~] reopening the sentence or plea:

(i) ~~(i)~~ would not preclude continued prosecution or sentencing the defendant; and

(ii) would not otherwise permit the defendant to escape justice.

(b) [~~Any remedy shall be tailored~~] The court shall tailor a remedy to provide the victim with an appropriate remedy without violating any constitutional right of the defendant.

~~(d)~~ (c) If the court sets aside a previously entered plea of guilty or no contest, and [~~thereafter~~] the continued prosecution of the charge is held to be prevented by the defendant's having been previously put in jeopardy, the order setting aside the plea is void and the plea is reinstated as of the date of [~~its~~] the plea's original entry.

~~(e)~~ (d) The court may not award as a remedy the dismissal of any criminal charge.

~~(f)~~ (e) The court may not award any remedy if the proceeding that the victim is challenging occurred more than 90 days before the day on which the victim filed an action alleging the violation of the right.

~~(4)~~ (8) The failure to provide the rights in this chapter or [~~Title 77, Chapter 37, Victims' Rights~~] Chapter 37, Victims' Rights, shall not constitute cause for a judgment against the state or any government entity, or any individual employed by the state or any government

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entity, for monetary damages, attorney fees, or the costs of exercising any rights under this chapter.

(9) A defendant convicted of an offense may not bring an action or complaint concerning a violation of this chapter or Chapter 37, Victims' Rights.

Section ~~{11}~~9. **Repealer.**

This bill repeals:

Section 77-37-5, Remedies -- District Victims' Rights Committee.

Section ~~{12}~~10. **Effective date.**

This bill takes effect on May 1, 2024.