

ATTORNEY GENERAL AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses the duties of the attorney general.

Highlighted Provisions:

This bill:

- ▶ prohibits the attorney general from engaging in the private practice of law.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

67-5-1. General duties and restrictions.

(1) The attorney general shall:

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

Section **67-5-17**;

- (b) except as provided in Sections **10-3-928** and **17-18a-403**, attend the Supreme Court



28 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
29 defend all causes to which the state or any officer, board, or commission of the state in an
30 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
31 state is interested;

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

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

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

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

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

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

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

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

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

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

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

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

57 (i) purchase in the name of the state, under the direction of the state Board of
58 Examiners, any property offered for sale under execution issued upon judgments in favor of or

59 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
60 consideration of the purchases;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

113 (A) settlements reached;

114 (B) consent decrees entered;

115 (C) judgments issued;

116 (D) preliminary injunctions issued;

117 (E) temporary restraining orders issued; or

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

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

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

122 (A) the Legislative Management Committee;

123 (B) the Judiciary Interim Committee; and

124 (C) the Law Enforcement and Criminal Justice Interim Committee;

125 (v) if the attorney general operates the Office of the Attorney General or any portion of

126 the Office of the Attorney General as an internal service fund agency in accordance with

127 Section 67-5-4, submit to the rate committee established in Section 67-5-34:

128 (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

129 (ii) any other information or analysis requested by the rate committee;

130 (w) before the end of each calendar year, create an annual performance report for the

131 Office of the Attorney General and post the report on the attorney general's website;

132 (x) ensure that any training required under this chapter complies with Title 63G,

133 Chapter 22, State Training and Certification Requirements;

134 (y) notify the legislative general counsel in writing within three business days after the

135 day on which the attorney general is officially notified of a claim, regardless of whether the

136 claim is filed in state or federal court, that challenges:

137 (i) the constitutionality of a state statute;

138 (ii) the validity of legislation; or

139 (iii) any action of the Legislature; and

140 (z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a

141 special advisor to the Office of the Governor and the Office of the Attorney General in matters

142 relating to Native American and tribal issues to:

143 (A) establish outreach to the tribes and affected counties and communities; and

144 (B) foster better relations and a cooperative framework; and

145 (ii) annually report to the Executive Offices and Criminal Justice Appropriations

146 Subcommittee regarding:

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

148 (B) whether the need remains for the ongoing appropriation to fund the special advisor

149 described in Subsection (1)(z)(i).

150 (2) (a) The attorney general may require a district attorney or county attorney of the

151 state to, upon request, report on the status of public business entrusted to the district or county

152 attorney's charge.

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

155 (i) a law enforcement agency submits investigation results to the county attorney or
156 district attorney of the jurisdiction where the incident occurred and the county attorney or
157 district attorney:

158 (A) declines to file criminal charges; or

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

161 (ii) after consultation with the county attorney or district attorney of the jurisdiction
162 where the incident occurred, the attorney general reasonably believes action by the attorney
163 general would not interfere with an ongoing investigation or prosecution by the county attorney
164 or district attorney of the jurisdiction where the incident occurred.

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

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

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

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

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

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

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

181 (3) The attorney general:

182 (a) is a full-time employee of the state; and

183 (b) may not engage in the private practice of law.

184 Section 2. **Effective date.**

185 This bill takes effect on May 1, 2024.