

# HB0414S01 compared with HB0414

~~{deleted text}~~ shows text that was in HB0414 but was deleted in HB0414S01.

inserted text shows text that was not in HB0414 but was inserted into HB0414S01.

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~~{STUDENT RIGHTS TO JOIN SEU}~~ Representative Jordan D. Teuscher proposes the following substitute bill:

## DUE PROCESS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: { } Jordan D. Teuscher**

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

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### LONG TITLE

#### General Description:

This bill ~~{enacts provisions related to}~~ addresses due process in government proceedings, including disciplinary proceedings in an institution of higher education.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts provisions related to disciplinary proceedings in institutions of higher education, including:
  - requiring an institution of higher education to allow certain parties to have legal representation at a disciplinary proceeding;
  - governing the exchange of evidence at a disciplinary proceeding;
  - prohibiting certain conflicts of interest in a disciplinary proceeding; and

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- authorizing a cause of action;
- ▶ requires an institution to adopt policies and procedures consistent with the provisions of this bill;
- ▶ amends governmental immunity provisions; and
- ▶ amends applicable governmental immunity provisions.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

**63G-7-301**, as last amended by Laws of Utah 2023, Chapter 516

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

#### ENACTS:

**53B-27-601**, Utah Code Annotated 1953

**53B-27-602**, Utah Code Annotated 1953

**53B-27-603**, Utah Code Annotated 1953

**53B-27-604**, Utah Code Annotated 1953

**53B-27-605**, Utah Code Annotated 1953

**53B-27-606**, Utah Code Annotated 1953

**53B-27-607**, Utah Code Annotated 1953

**53B-27-608**, Utah Code Annotated 1953

**53B-27-609**, Utah Code Annotated 1953

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

Section 1. Section **53B-27-601** is enacted to read:

### **Part 6. Student Legal Representation**

#### **53B-27-601. Application.**

The provisions of this part do not:

- (1) govern campus law enforcement departments or law enforcement personnel; or
- (2) otherwise replace or amend criminal procedures that govern law enforcement

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activities.

Section 2. Section **53B-27-602** is enacted to read:

### **53B-27-602. Definitions.**

As used in this part:

(1) "Academic dishonesty" means an act of dishonesty relating to a student's academic work or performance.

(2) "Accused student" means an individual enrolled in an institution who has allegedly violated a policy or rule.

(3) "Accused student organization" means a student organization, recognized by an institution, that has allegedly violated a policy or rule.

(4) "Alleged victim" means an individual whose rights are allegedly infringed or who is otherwise allegedly harmed by an accused student's or a student organization's violation of a policy or rule.

(5) "Evidence" means information that is inculpatory or exculpatory as the information relates to an accusation against an accused student or accused student organization, including:

- (a) a complainant statement;
- (b) a third-party witness statement;
- (c) electronically stored information;
- (d) a written communication;
- (e) a post to social media; or
- (f) demonstrative evidence.

(6) "Full participation" means the opportunity in a student or student organization disciplinary proceeding to:

- (a) make opening and closing statements;
- (b) examine and cross-examine a witness;
- (c) introduce relevant evidence; and
- (d) provide support, guidance, or advice to an accused student, accused student organization, or alleged victim.

(7) "Legal representation" means an attorney, who is licensed to practice law in this state and whom:

- (a) an accused student selects to assist the student in the student's disciplinary

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proceeding:

(b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to the alleged victim; or

(c) an accused student organization selects to assist the student organization at a student organization disciplinary proceeding.

(8) "Nonattorney advocate" means an individual, who is not licensed to practice law and whom:

(a) an accused student selects to assist the student in the student's disciplinary proceeding;

(b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to the alleged victim; or

(c) an accused student organization selects to assist the student organization at a student organization disciplinary proceeding.

(9) "Policy or rule" means a policy or rule, or a relevant section of a policy or rule, of an institution that, if violated, may result in:

(a) for a student, a suspension of 10 calendar days or more or expulsion from the institution; or

(b) for a student organization, the suspension or the removal of institutional recognition of the student organization.

(10) "Proceeding" means an adjudicatory ~~meeting, whether formal or informal~~ hearing, including an appeal, in which evidence is presented to a hearing officer or a hearing panel, and that is:

(a) required by a policy or rule; or

(b) held to determine whether a policy or rule has been violated.

(11) (a) "Student disciplinary proceeding" means a proceeding initiated by an institution to determine whether an accused student has violated a policy or rule.

(b) "Student disciplinary proceeding" does not include a proceeding that solely involves a student's academic dishonesty.

(12) "Student organization" means a club or other organization:

(a) that meets during noninstructional time;

(b) that is recognized by the institution at which the organization meets; and

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(c) with a majority of members who are current students at the institution.

(13) (a) "Student organization disciplinary proceeding" means a proceeding initiated by an institution to determine whether an accused student organization has violated a rule or policy.

(b) "Student organization disciplinary proceeding" does not include a proceeding that solely involves a student's academic dishonesty.

Section 3. Section **53B-27-603** is enacted to read:

### **53B-27-603. Student disciplinary proceedings -- Legal representation.**

(1) An institution may not prohibit:

(a) an accused student from being represented, at the accused student's expense, by legal representation or a nonattorney advocate at a student disciplinary proceeding that pertains to the accused student; or

(b) an accused student's legal representation or nonattorney advocate from full participation in a student disciplinary proceeding that pertains to the accused student.

(2) An institution may not prohibit:

(a) an alleged victim from being represented, at the alleged victim's expense, by legal representation or a nonattorney advocate at a student disciplinary proceeding that pertains to the alleged victim; or

(b) the alleged victim's legal representation or nonattorney advocate from full participation in a student disciplinary proceeding that pertains to the alleged victim.

(3) (a) An institution shall provide an accused student described in Subsection (1) or an alleged victim described in Subsection (2) written notice of the accused student's or alleged victim's rights under this section.

(b) The institution shall ensure that the notice provided to an accused student under Subsection (3)(a) notifies the accused student that:

(i) the accused student is entitled to a student disciplinary proceeding to contest the charges against the accused student;

(ii) the accused student is entitled to a presumption of innocence; and

(iii) the presumption of innocence remains until:

(A) the accused student acknowledges responsibility for the alleged violation; or

(B) the institution has established every element of the alleged violation at a student

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disciplinary proceeding.

(c) Unless exigent circumstances reasonably justify proceeding without providing notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure that the institution provides written notice of the accused student's or alleged victim's rights as soon as practicable but no later than seven days before a student disciplinary proceeding that pertains to the accused student or alleged victim.

Section 4. Section **53B-27-604** is enacted to read:

**53B-27-604. Student organization disciplinary proceedings -- Legal representation.**

(1) An institution may not prohibit:

(a) an accused student organization from being represented, at the accused student organization's expense, by legal representation or a nonattorney advocate at a student organization disciplinary proceeding that pertains to the accused student organization; or

(b) an accused student organization's legal representation or nonattorney advocate from full participation in a student organization disciplinary proceeding that pertains to the accused student organization.

(2) An institution may not prohibit:

(a) an alleged victim from being represented, at the alleged victim's expense, by legal representation or a nonattorney advocate at a student organization disciplinary proceeding that pertains to the alleged victim; or

(b) the alleged victim's legal representation or nonattorney advocate from full participation in a student organization disciplinary proceeding that pertains to the alleged victim.

(3) (a) An institution shall provide an accused student organization described in Subsection (1) or an alleged victim described in Subsection (2) written notice of the accused student organization's or alleged victim's rights under this section.

(b) The institution shall ensure that the notice provided to an accused student organization under Subsection (3)(a) notifies the accused student organization that:

(i) the accused student organization is entitled to a student organization disciplinary proceeding to contest the charges against the accused student organization;

(ii) the accused student organization is entitled to a presumption of innocence; and

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(iii) the presumption of innocence remains until:

(A) the accused student organization acknowledges responsibility for the alleged violation; or

(B) the institution has established every element of the alleged violation at a student organization disciplinary proceeding.

(c) Unless exigent circumstances reasonably justify proceeding without providing notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure that the institution provides written notice of the accused student organization's or alleged victim's rights as soon as practicable but no later than seven days before a student organization disciplinary proceeding that pertains to the accused student organization or alleged victim.

Section 5. Section **53B-27-605** is enacted to read:

### **53B-27-605. Exchange of evidence.**

(1) (a) An institution shall ensure that an accused student, an alleged victim, or an accused student organization has access to all material evidence that is in the institution's possession, including both inculpatory and exculpatory evidence, unless the material is subject to a legal privilege, no later than one week before the day on which a proceeding begins.

(b) Evidence that is an accused student's or an alleged victim's personal medical record, mental health record, therapy note, or journal may not be used as evidence in a proceeding unless the accused student or alleged victim consents to the use of the evidence in the proceeding.

(c) Any evidence presented in a proceeding under this part is confidential and may not be:

(i) used as evidence in a subsequent proceeding; or

(ii) used or disclosed to a third-party for any other purpose other than for the proceeding.

(2) Nothing in this part:

(a) provides for formal or informal discovery beyond the exchange of evidence described in Subsection (1); or

(b) incorporates or binds an institution to:

(i) the Utah Rules of Civil Procedure or the Utah Rules of Evidence; or

(ii) the Federal Rules of Civil Procedure or the Federal Rules of Evidence.

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Section 6. Section **53B-27-606** is enacted to read:

### **53B-27-606. Conflict of interest.**

(1) An institution shall conduct a student disciplinary proceeding or student organization disciplinary proceeding in an impartial manner free from conflicts of interests.

(2) Except as provided in Subsection (3), in order to avoid conflicts of interest created by a comingling of roles, an institution shall prohibit an individual employed by or otherwise representing an institution from acting as an adjudicator, hearing officer, or appellate hearing officer in a student disciplinary proceeding or student organization disciplinary proceeding if the individual has also served in one of the following roles in the same matter:

(a) an advocate or counselor for an alleged victim, accused student, or accused student organization;

(b) an investigator;

(c) an institutional prosecutor; or

(d) an advisor to a person described in Subsection (2)(a), (b), or (c).

(3) If an individual employed by the institution or otherwise representing the institution serves as an investigator and an institutional prosecutor for the alleged violation of a policy or rule, the institution shall advise an accused student, accused student organization, or alleged victim before the investigation proceeding.

(4) An individual may not serve as an investigator or institutional prosecutor and an advocate for an accused student, accused student organization, or alleged victim in the same matter.

(5) In a proceeding conducted under this part, an institution shall allow an accused student, accused student organization, or an alleged victim to raise objections to issues that could potentially compromise the impartiality of the proceedings, including any potential conflicts of interest in violation of this section.

Section 7. Section **53B-27-607** is enacted to read:

### **53B-27-607. Application -- Institution policies.**

(1) This part does not prohibit an institution from temporarily suspending an accused student or accused student organization pending the completion of a student or student organization disciplinary proceeding.

(2) An institution shall:



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(a) enact policies to govern proceedings in which a student has a right to an active legal representation or a nonattorney advocate in accordance with this part;

(b) train adjudicators, hearing officers, and appellate hearing officers on relevant evidence and nonrelevant, nonprobative evidence; and

(c) enact policies and procedures to notify a student of the student's right to bring a cause of action in violation of this part to the attorney general's office.

(3) An institution may adopt a policy requiring a legal representation or nonattorney advocate of an accused student, alleged victim, or accused student organization to submit questions for an opposing party to the hearing officer.

Section 8. Section **53B-27-608** is enacted to read:

### **53B-27-608. Cause of action.**

The attorney general may bring an action to enjoin a violation of this part, in a state court of competent jurisdiction, against an institution or an institution's agent acting in the agent's official capacity.

Section 9. Section **53B-27-609** is enacted to read:

### **53B-27-609. Statute of limitations.**

(1) The attorney general may not bring an action under this part later than one year after the day on which the cause of action accrues.

(2) The cause of action accrues on the day on which the student or student organization receives final notice, from the institution, of sanction or discipline that violates an institution's rule or policy.

Section 10. Section **63G-7-301** is amended to read:

### **63G-7-301. Waivers of immunity.**

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

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(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from

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a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a background check under Section 53G-11-402; ~~and~~

(k) as to any action brought under Section 78B-6-2303[-]; ~~and~~

(l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student Legal Representation.

(3) (a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

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(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education

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student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

(5) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived if:

(a) in response to a suit filed on or after May 1, 2024, by a government employee in the government employee's personal capacity, the defendant files a suit or counterclaim against the government employee:

(i) that arises out of the transaction or occurrence that is the subject matter of the government employee's cause of action against the defendant; and

(ii) for which the government employee would be immune under this chapter if the defendant had filed suit against the government employee without the government employee first filing suit against the defendant; or

(b) in a suit filed on or after May 1, 2024, by a plaintiff against a government employee asserting a cause of action for which the government employee is immune under this chapter, the government employee files a suit or counterclaim against the plaintiff, in the government employee's personal capacity, that arises out of the transaction or occurrence that is the subject matter of the plaintiff's cause of action against the government employee.

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Section 11. Section **67-5-1** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(iii) to any county attorney or district attorney;

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

(i) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

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

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

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

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

(n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) settlements reached;

(B) consent decrees entered;



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(C) judgments issued;  
(D) preliminary injunctions issued;  
(E) temporary restraining orders issued; or  
(F) formal or informal policies of the Office of the Attorney General to not enforce a law; and

(ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:

- (A) the Legislative Management Committee;
- (B) the Judiciary Interim Committee; and
- (C) the Law Enforcement and Criminal Justice Interim Committee;

(v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

- (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
- (ii) any other information or analysis requested by the rate committee;

(w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

- (i) the constitutionality of a state statute;
- (ii) the validity of legislation; or
- (iii) any action of the Legislature; and

(z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

- (A) establish outreach to the tribes and affected counties and communities; and
- (B) foster better relations and a cooperative framework; and

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

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Subcommittee regarding:

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

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

(aa) ensure compliance with Title 53B, Chapter 27, Part 6, Student Legal

Representation, by:

(i) establishing a process to track the number of complaints submitted by students;

(ii) pursuing civil action to enforce statutory protections; and

(iii) no later than November 1 each year, reporting to the Judiciary Interim Committee regarding the attorney general's enforcement under this Subsection (1)(aa).

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

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

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

(A) declines to file criminal charges; or

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

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

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

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

(ii) all recordings, photographs, and other physical or digital media created or collected

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in relation to the investigation;

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

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

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

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

**Section 12. Effective date.**

This bill takes effect on May 1, 2024.