

ATTORNEY GENERAL AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill modifies provisions related to the duties and powers of the attorney general.

Highlighted Provisions:

This bill:

- ▶ requires the attorney general to provide an annual performance report; and
- ▶ addresses the purposes for which the attorney general may authorize certain law

enforcement officers to use a state issued vehicle.

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 2016, Chapter 120

67-5-23, as last amended by Laws of Utah 2014, Chapter 26

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.

The attorney general shall:

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

Section **67-5-17**;

30 (2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court
31 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
32 defend all causes to which the state or any officer, board, or commission of the state in an
33 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
34 state is interested;

35 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
36 process as necessary to execute the judgment;

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

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

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

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

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

50 (6) exercise supervisory powers over the district and county attorneys of the state in all
51 matters pertaining to the duties of their offices, and from time to time require of them reports of
52 the condition of public business entrusted to their charge;

53 (7) give the attorney general's opinion in writing and without fee to the Legislature or
54 either house and to any state officer, board, or commission, and to any county attorney or
55 district attorney, when required, upon any question of law relating to their respective offices;

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

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

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

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

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

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

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

86 county where the property is situated for its recovery, and escheat that property to the state;

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

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

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

93 (18) investigate and prosecute violations of all applicable state laws relating to fraud in
94 connection with the state Medicaid program and any other medical assistance program
95 administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

96 (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients
97 at:

98 (a) health care facilities that receive payments under the state Medicaid program; and

99 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.

100 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

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

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

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

106 (b) if the meeting is closed, include an estimate of the state's potential financial or other
107 legal exposure in that report; [~~and~~]

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

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

112 (b) any other information or analysis requested by the rate committee[-]; and

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

114 Office of the Attorney General and post the report on the attorney general's website.

115 Section 2. Section **67-5-23** is amended to read:

116 **67-5-23. Use of state vehicles for law enforcement officers.**

117 [~~(1) The~~] Subject to rules adopted by the Division of Fleet Operations under Section

118 63A-9-401, the attorney general may authorize a law enforcement [~~officers~~] officer, as defined

119 [~~under~~] in Section 53-13-103, who [~~are employees in~~] is an employee of the Office of the

120 Attorney General to use a state issued vehicle for official and [~~commuter~~] personal use.

121 [~~(2) An employee shall use, and the attorney general shall authorize the use of, a~~

122 ~~vehicle under Subsection (1) subject to the rules adopted by the Division of Fleet Operations in~~

123 ~~accordance with Section 63A-9-401.]~~