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**DUE PROCESS AMENDMENTS**  
2024 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Jordan D. Teuscher**  
Senate Sponsor: Todd D. Weiler

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**LONG TITLE**

**General Description:**

This bill addresses due process in 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
  - authorizing a cause of action;
- ▶ requires an institution to adopt policies and procedures consistent with the provisions of this bill; 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

28 ENACTS:

29 **53B-27-601**, Utah Code Annotated 1953

30 **53B-27-602**, Utah Code Annotated 1953

31 **53B-27-603**, Utah Code Annotated 1953

32 **53B-27-604**, Utah Code Annotated 1953

33 **53B-27-605**, Utah Code Annotated 1953

34 **53B-27-606**, Utah Code Annotated 1953

35 **53B-27-607**, Utah Code Annotated 1953

36 **53B-27-608**, Utah Code Annotated 1953

37 **53B-27-609**, Utah Code Annotated 1953

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

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

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**Part 6. Student Legal Representation**

42 **53B-27-601 . Application.**

43 The provisions of this part do not:

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

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

47 **53B-27-602 . Definitions.**

48 As used in this part:

- 49 (1) "Academic dishonesty" means an act of dishonesty relating to a student's academic
- 50 work or performance.
- 51 (2) "Accused student" means an individual enrolled in an institution who has allegedly
- 52 violated a policy or rule.
- 53 (3) "Accused student organization" means a student organization, recognized by an
- 54 institution, that has allegedly violated a policy or rule.
- 55 (4) "Alleged victim" means an individual whose rights are allegedly infringed or who is
- 56 otherwise allegedly harmed by an accused student's or a student organization's violation
- 57 of a policy or rule.
- 58 (5) "Evidence" means information that is inculpatory or exculpatory as the information
- 59 relates to an accusation against an accused student or accused student organization,
- 60 including:

- 61        (a) a complainant statement;  
62        (b) a third-party witness statement;  
63        (c) electronically stored information;  
64        (d) a written communication;  
65        (e) a post to social media; or  
66        (f) demonstrative evidence.
- 67    (6) "Full participation" means the opportunity in a student or student organization  
68        disciplinary proceeding to:  
69        (a) make opening and closing statements;  
70        (b) examine and cross-examine a witness;  
71        (c) introduce relevant evidence; and  
72        (d) provide support, guidance, or advice to an accused student, accused student  
73            organization, or alleged victim.
- 74    (7) "Legal representation" means an attorney, who is licensed to practice law in this state  
75        and whom:  
76        (a) an accused student selects to assist the student in the student's disciplinary  
77            proceeding;  
78        (b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to  
79            the alleged victim; or  
80        (c) an accused student organization selects to assist the student organization at a student  
81            organization disciplinary proceeding.
- 82    (8) "Nonattorney advocate" means an individual, who is not licensed to practice law and  
83        whom:  
84        (a) an accused student selects to assist the student in the student's disciplinary  
85            proceeding;  
86        (b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to  
87            the alleged victim; or  
88        (c) an accused student organization selects to assist the student organization at a student  
89            organization disciplinary proceeding.
- 90    (9) "Policy or rule" means a policy or rule, or a relevant section of a policy or rule, of an  
91        institution that, if violated, may result in:  
92        (a) for a student, a suspension of 10 calendar days or more or expulsion from the  
93            institution; or  
94        (b) for a student organization, the suspension or the removal of institutional recognition

- 95           of the student organization.
- 96   (10) "Proceeding" means an adjudicatory hearing, including an appeal, in which evidence is  
 97       presented to a hearing officer or a hearing panel, and that is:
- 98       (a) required by a policy or rule; or  
 99       (b) held to determine whether a policy or rule has been violated.
- 100 (11) (a) "Student disciplinary proceeding" means a proceeding initiated by an institution  
 101       to determine whether an accused student has violated a policy or rule.  
 102       (b) "Student disciplinary proceeding" does not include a proceeding that solely involves  
 103       a student's academic dishonesty.
- 104 (12) "Student organization" means a club or other organization:
- 105       (a) that meets during noninstructional time;  
 106       (b) that is recognized by the institution at which the organization meets; and  
 107       (c) with a majority of members who are current students at the institution.
- 108 (13) (a) "Student organization disciplinary proceeding" means a proceeding initiated by  
 109       an institution to determine whether an accused student organization has violated a  
 110       rule or policy.  
 111       (b) "Student organization disciplinary proceeding" does not include a proceeding that  
 112       solely involves a student's academic dishonesty.
- 113       Section 3. Section **53B-27-603** is enacted to read:
- 114       **53B-27-603 . Student disciplinary proceedings -- Legal representation.**
- 115 (1) An institution may not prohibit:
- 116       (a) an accused student from being represented, at the accused student's expense, by legal  
 117       representation or a nonattorney advocate at a student disciplinary proceeding that  
 118       pertains to the accused student; or  
 119       (b) an accused student's legal representation or nonattorney advocate from full  
 120       participation in a student disciplinary proceeding that pertains to the accused student.
- 121 (2) An institution may not prohibit:
- 122       (a) an alleged victim from being represented, at the alleged victim's expense, by legal  
 123       representation or a nonattorney advocate at a student disciplinary proceeding that  
 124       pertains to the alleged victim; or  
 125       (b) the alleged victim's legal representation or nonattorney advocate from full  
 126       participation in a student disciplinary proceeding that pertains to the alleged victim.
- 127 (3) (a) An institution shall provide an accused student described in Subsection (1) or an  
 128       alleged victim described in Subsection (2) written notice of the accused student's or

- 129 alleged victim's rights under this section.
- 130 (b) The institution shall ensure that the notice provided to an accused student under
- 131 Subsection (3)(a) notifies the accused student that:
- 132 (i) the accused student is entitled to a student disciplinary proceeding to contest the
- 133 charges against the accused student;
- 134 (ii) the accused student is entitled to a presumption of innocence; and
- 135 (iii) the presumption of innocence remains until:
- 136 (A) the accused student acknowledges responsibility for the alleged violation; or
- 137 (B) the institution has established every element of the alleged violation at a
- 138 student disciplinary proceeding.
- 139 (c) Unless exigent circumstances reasonably justify proceeding without providing notice
- 140 under Subsection (3)(a), an institution shall establish policies and procedures to
- 141 ensure that the institution provides written notice of the accused student's or alleged
- 142 victim's rights as soon as practicable but no later than seven days before a student
- 143 disciplinary proceeding that pertains to the accused student or alleged victim.

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

145 **53B-27-604 . Student organization disciplinary proceedings -- Legal**

146 **representation.**

- 147 (1) An institution may not prohibit:
- 148 (a) an accused student organization from being represented, at the accused student
- 149 organization's expense, by legal representation or a nonattorney advocate at a student
- 150 organization disciplinary proceeding that pertains to the accused student
- 151 organization; or
- 152 (b) an accused student organization's legal representation or nonattorney advocate from
- 153 full participation in a student organization disciplinary proceeding that pertains to the
- 154 accused student organization.
- 155 (2) An institution may not prohibit:
- 156 (a) an alleged victim from being represented, at the alleged victim's expense, by legal
- 157 representation or a nonattorney advocate at a student organization disciplinary
- 158 proceeding that pertains to the alleged victim; or
- 159 (b) the alleged victim's legal representation or nonattorney advocate from full
- 160 participation in a student organization disciplinary proceeding that pertains to the
- 161 alleged victim.
- 162 (3) (a) An institution shall provide an accused student organization described in

- 163 Subsection (1) or an alleged victim described in Subsection (2) written notice of the  
164 accused student organization's or alleged victim's rights under this section.
- 165 (b) The institution shall ensure that the notice provided to an accused student  
166 organization under Subsection (3)(a) notifies the accused student organization that:  
167 (i) the accused student organization is entitled to a student organization disciplinary  
168 proceeding to contest the charges against the accused student organization;  
169 (ii) the accused student organization is entitled to a presumption of innocence; and  
170 (iii) the presumption of innocence remains until:  
171 (A) the accused student organization acknowledges responsibility for the alleged  
172 violation; or  
173 (B) the institution has established every element of the alleged violation at a  
174 student organization disciplinary proceeding.
- 175 (c) Unless exigent circumstances reasonably justify proceeding without providing notice  
176 under Subsection (3)(a), an institution shall establish policies and procedures to  
177 ensure that the institution provides written notice of the accused student  
178 organization's or alleged victim's rights as soon as practicable but no later than seven  
179 days before a student organization disciplinary proceeding that pertains to the  
180 accused student organization or alleged victim.

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

182 **53B-27-605 . Exchange of evidence.**

- 183 (1) (a) An institution shall ensure that an accused student, an alleged victim, or an  
184 accused student organization has access to all material evidence that is in the  
185 institution's possession, including both inculpatory and exculpatory evidence, unless  
186 the material is subject to a legal privilege, no later than one week before the day on  
187 which a proceeding begins.
- 188 (b) Evidence that is an accused student's or an alleged victim's personal medical record,  
189 mental health record, therapy note, or journal may not be used as evidence in a  
190 proceeding unless the accused student or alleged victim consents to the use of the  
191 evidence in the proceeding.
- 192 (c) Any evidence presented in a proceeding under this part is confidential and may not  
193 be:  
194 (i) used as evidence in a subsequent proceeding; or  
195 (ii) used or disclosed to a third-party for any other purpose other than for the  
196 proceeding.

- 197 (2) Nothing in this part:  
198 (a) provides for formal or informal discovery beyond the exchange of evidence  
199 described in Subsection (1); or  
200 (b) incorporates or binds an institution to:  
201 (i) the Utah Rules of Civil Procedure or the Utah Rules of Evidence; or  
202 (ii) the Federal Rules of Civil Procedure or the Federal Rules of Evidence.
- 203 Section 6. Section **53B-27-606** is enacted to read:  
204 **53B-27-606 . Conflict of interest.**
- 205 (1) An institution shall conduct a student disciplinary proceeding or student organization  
206 disciplinary proceeding in an impartial manner free from conflicts of interests.
- 207 (2) Except as provided in Subsection (3), in order to avoid conflicts of interest created by a  
208 comingling of roles, an institution shall prohibit an individual employed by or otherwise  
209 representing an institution from acting as an adjudicator, hearing officer, or appellate  
210 hearing officer in a student disciplinary proceeding or student organization disciplinary  
211 proceeding if the individual has also served in one of the following roles in the same  
212 matter:
- 213 (a) an advocate or counselor for an alleged victim, accused student, or accused student  
214 organization;
- 215 (b) an investigator;
- 216 (c) an institutional prosecutor; or
- 217 (d) an advisor to a person described in Subsection (2)(a), (b), or (c).
- 218 (3) If an individual employed by the institution or otherwise representing the institution  
219 serves as an investigator and an institutional prosecutor for the alleged violation of a  
220 policy or rule, the institution shall advise an accused student, accused student  
221 organization, or alleged victim before the investigation proceeding.
- 222 (4) An individual may not serve as an investigator or institutional prosecutor and an  
223 advocate for an accused student, accused student organization, or alleged victim in the  
224 same matter.
- 225 (5) In a proceeding conducted under this part, an institution shall allow an accused student,  
226 accused student organization, or an alleged victim to raise objections to issues that could  
227 potentially compromise the impartiality of the proceedings, including any potential  
228 conflicts of interest in violation of this section.

229 Section 7. Section **53B-27-607** is enacted to read:  
230 **53B-27-607 . Application -- Institution policies.**

- 231 (1) This part does not prohibit an institution from temporarily suspending an accused  
 232 student or accused student organization pending the completion of a student or student  
 233 organization disciplinary proceeding.
- 234 (2) An institution shall:
- 235 (a) enact policies to govern proceedings in which a student has a right to an active legal  
 236 representation or a nonattorney advocate in accordance with this part;
- 237 (b) train adjudicators, hearing officers, and appellate hearing officers on relevant  
 238 evidence and nonrelevant, nonprobative evidence; and
- 239 (c) enact policies and procedures to notify a student of the student's right to bring a cause  
 240 of action in violation of this part to the attorney general's office.
- 241 (3) An institution may adopt a policy requiring a legal representation or nonattorney  
 242 advocate of an accused student, alleged victim, or accused student organization to  
 243 submit questions for an opposing party to the hearing officer.

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

245 **53B-27-608 . Cause of action.**

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

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

250 **53B-27-609 . Statute of limitations.**

- 251 (1) The attorney general may not bring an action under this part later than one year after the  
 252 day on which the cause of action accrues.
- 253 (2) The cause of action accrues on the day on which the student or student organization  
 254 receives final notice, from the institution, of sanction or discipline that violates an  
 255 institution's rule or policy.

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

257 **63G-7-301 . Waivers of immunity.**

- 258 (1) (a) Immunity from suit of each governmental entity is waived as to any contractual  
 259 obligation.
- 260 (b) Actions arising out of contractual rights or obligations are not subject to the  
 261 requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.
- 262 (c) The Division of Water Resources is not liable for failure to deliver water from a  
 263 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River  
 264 Development Act, if the failure to deliver the contractual amount of water is due to



- 265 drought, other natural condition, or safety condition that causes a deficiency in the  
266 amount of available water.
- 267 (2) Immunity from suit of each governmental entity is waived:
- 268 (a) as to any action brought to recover, obtain possession of, or quiet title to real or  
269 personal property;
- 270 (b) as to any action brought to foreclose mortgages or other liens on real or personal  
271 property, to determine any adverse claim on real or personal property, or to obtain an  
272 adjudication about any mortgage or other lien that the governmental entity may have  
273 or claim on real or personal property;
- 274 (c) as to any action based on the negligent destruction, damage, or loss of goods,  
275 merchandise, or other property while it is in the possession of any governmental  
276 entity or employee, if the property was seized for the purpose of forfeiture under any  
277 provision of state law;
- 278 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah  
279 Constitution, Article I, Section 22, for the recovery of compensation from the governmental  
280 entity when the governmental entity has taken or damaged private property for public uses  
281 without just compensation;
- 282 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or  
283 63G-2-802;
- 284 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees  
285 Act;
- 286 (g) as to any action brought to obtain relief from a land use regulation that imposes a  
287 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah  
288 Religious Land Use Act;
- 289 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 290 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,  
291 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on  
292 them; or
- 293 (ii) any defective or dangerous condition of a public building, structure, dam,  
294 reservoir, or other public improvement;
- 295 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately  
296 caused by a negligent act or omission of an employee committed within the scope of  
297 employment;
- 298 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a

- 299 sexual battery, as provided in Section 76-9-702.1, committed:
- 300 (i) against a student of a public elementary or secondary school, including a charter  
301 school; and
- 302 (ii) by an employee of a public elementary or secondary school or charter school who:
- 303 (A) at the time of the sexual battery, held a position of special trust, as defined in  
304 Section 76-5-404.1, with respect to the student;
- 305 (B) is criminally charged in connection with the sexual battery; and
- 306 (C) the public elementary or secondary school or charter school knew or in the  
307 exercise of reasonable care should have known, at the time of the employee's  
308 hiring, to be a sex offender, as defined in Section 77-41-102, required to  
309 register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose  
310 status as a sex offender would have been revealed in a background check under  
311 Section 53G-11-402; [~~and~~]
- 312 (k) as to any action brought under Section 78B-6-2303[-] ; and
- 313 (l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student  
314 Legal Representation.
- 315 (3) (a) As used in this Subsection (3):
- 316 (i) "Code of conduct" means a code of conduct that:
- 317 (A) is not less stringent than a model code of conduct, created by the State Board  
318 of Education, establishing a professional standard of care for preventing the  
319 conduct described in Subsection (3)(a)(i)(D);
- 320 (B) is adopted by the applicable local education governing body;
- 321 (C) regulates behavior of a school employee toward a student; and
- 322 (D) includes a prohibition against any sexual conduct between an employee and a  
323 student and against the employee and student sharing any sexually explicit or  
324 lewd communication, image, or photograph.
- 325 (ii) "Local education agency" means:
- 326 (A) a school district;
- 327 (B) a charter school; or
- 328 (C) the Utah Schools for the Deaf and the Blind.
- 329 (iii) "Local education governing board" means:
- 330 (A) for a school district, the local school board;
- 331 (B) for a charter school, the charter school governing board; or
- 332 (C) for the Utah Schools for the Deaf and the Blind, the state board.

- 333 (iv) "Public school" means a public elementary or secondary school.
- 334 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 335 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering
- 336 the term "child" in that section to include an individual under age 18.
- 337 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 338 claim against a local education agency for an injury resulting from a sexual battery or
- 339 sexual abuse committed against a student of a public school by a paid employee of
- 340 the public school who is criminally charged in connection with the sexual battery or
- 341 sexual abuse, unless:
- 342 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
- 343 code of conduct; and
- 344 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 345 (A) provided training on the code of conduct to the employee; and
- 346 (B) required the employee to sign a statement acknowledging that the employee
- 347 has read and understands the code of conduct.
- 348 (4) (a) As used in this Subsection (4):
- 349 (i) "Higher education institution" means an institution included within the state
- 350 system of higher education under Section 53B-1-102.
- 351 (ii) "Policy governing behavior" means a policy adopted by a higher education
- 352 institution or the Utah Board of Higher Education that:
- 353 (A) establishes a professional standard of care for preventing the conduct
- 354 described in Subsections (4)(a)(ii)(C) and (D);
- 355 (B) regulates behavior of a special trust employee toward a subordinate student;
- 356 (C) includes a prohibition against any sexual conduct between a special trust
- 357 employee and a subordinate student; and
- 358 (D) includes a prohibition against a special trust employee and subordinate student
- 359 sharing any sexually explicit or lewd communication, image, or photograph.
- 360 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.
- 361 (iv) "Special trust employee" means an employee of a higher education institution
- 362 who is in a position of special trust, as defined in Section 76-5-404.1, with a
- 363 higher education student.
- 364 (v) "Subordinate student" means a student:
- 365 (A) of a higher education institution; and
- 366 (B) whose educational opportunities could be adversely impacted by a special

- 367 trust employee.
- 368 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a  
369 claim for an injury resulting from a sexual battery committed against a subordinate  
370 student by a special trust employee, unless:
- 371 (i) the institution proves that the special trust employee's behavior that otherwise  
372 would constitute a sexual battery was:
- 373 (A) with a subordinate student who was at least 18 years old at the time of the  
374 behavior; and
- 375 (B) with the student's consent; or
- 376 (ii) (A) at the time of the sexual battery, the higher education institution was  
377 subject to a policy governing behavior; and
- 378 (B) before the sexual battery occurred, the higher education institution had taken  
379 steps to implement and enforce the policy governing behavior.

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

381 **67-5-1 . General duties.**

- 382 (1) The attorney general shall:
- 383 (a) perform all duties in a manner consistent with the attorney-client relationship under  
384 Section 67-5-17;
- 385 (b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court  
386 and the Court of Appeals of this state, and all courts of the United States, and  
387 prosecute or defend all causes to which the state or any officer, board, or commission  
388 of the state in an official capacity is a party, and take charge, as attorney, of all civil  
389 legal matters in which the state is interested;
- 390 (c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of  
391 process as necessary to execute the judgment;
- 392 (d) account for, and pay over to the proper officer, all money that comes into the  
393 attorney general's possession that belongs to the state;
- 394 (e) keep a file of all cases in which the attorney general is required to appear, including  
395 any documents and papers showing the court in which the cases have been instituted  
396 and tried, and whether they are civil or criminal, and:
- 397 (i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted  
398 to judgment, a memorandum of the judgment and of any process issued if  
399 satisfied, and if not satisfied, documentation of the return of the sheriff;
- 400 (ii) if criminal, the nature of the crime, the mode of prosecution, the stage of

- 401           proceedings, and, when prosecuted to sentence, a memorandum of the sentence  
402           and of the execution, if the sentence has been executed, and, if not executed, the  
403           reason for the delay or prevention; and
- 404           (iii) deliver this information to the attorney general's successor in office;
- 405       (f) exercise supervisory powers over the district and county attorneys of the state in all  
406           matters pertaining to the duties of the district and county attorneys' offices, including  
407           the authority described in Subsection (2);
- 408       (g) give the attorney general's opinion in writing and without fee, when required, upon  
409           any question of law relating to the office of the requester:
- 410           (i) in accordance with Section 67-5-1.1, to the Legislature or either house;
- 411           (ii) to any state officer, board, or commission; and
- 412           (iii) to any county attorney or district attorney;
- 413       (h) when required by the public service or directed by the governor, assist any county,  
414           district, or city attorney in the discharge of county, district, or city attorney's duties;
- 415       (i) purchase in the name of the state, under the direction of the state Board of Examiners,  
416           any property offered for sale under execution issued upon judgments in favor of or  
417           for the use of the state, and enter satisfaction in whole or in part of the judgments as  
418           the consideration of the purchases;
- 419       (j) when the property of a judgment debtor in any judgment mentioned in Subsection  
420           (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or  
421           encumbrance taking precedence of the judgment in favor of the state, redeem the  
422           property, under the direction of the state Board of Examiners, from the prior  
423           judgment, lien, or encumbrance, and pay all money necessary for the redemption,  
424           upon the order of the state Board of Examiners, out of any money appropriated for  
425           these purposes;
- 426       (k) when in the attorney general's opinion it is necessary for the collection or  
427           enforcement of any judgment, institute and prosecute on behalf of the state any action  
428           or proceeding necessary to set aside and annul all conveyances fraudulently made by  
429           the judgment debtors, and pay the cost necessary to the prosecution, when allowed by  
430           the state Board of Examiners, out of any money not otherwise appropriated;
- 431       (l) discharge the duties of a member of all official boards of which the attorney general  
432           is or may be made a member by the Utah Constitution or by the laws of the state, and  
433           other duties prescribed by law;
- 434       (m) institute and prosecute proper proceedings in any court of the state or of the United

- 435 States to restrain and enjoin corporations organized under the laws of this or any  
436 other state or territory from acting illegally or in excess of their corporate powers or  
437 contrary to public policy, and in proper cases forfeit their corporate franchises,  
438 dissolve the corporations, and wind up their affairs;
- 439 (n) institute investigations for the recovery of all real or personal property that may have  
440 escheated or should escheat to the state, and for that purpose, subpoena any persons  
441 before any of the district courts to answer inquiries and render accounts concerning  
442 any property, examine all books and papers of any corporations, and when any real or  
443 personal property is discovered that should escheat to the state, institute suit in the  
444 district court of the county where the property is situated for its recovery, and escheat  
445 that property to the state;
- 446 (o) administer the Children's Justice Center as a program to be implemented in various  
447 counties pursuant to Sections 67-5b-101 through 67-5b-107;
- 448 (p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a,  
449 Constitutional and Federalism Defense Act;
- 450 (q) pursue any appropriate legal action to implement the state's public lands policy  
451 established in Section 63C-4a-103;
- 452 (r) investigate and prosecute violations of all applicable state laws relating to fraud in  
453 connection with the state Medicaid program and any other medical assistance  
454 program administered by the state, including violations of Title 26B, Chapter 3, Part  
455 11, Utah False Claims Act;
- 456 (s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:
- 457 (i) in health care facilities that receive payments under the state Medicaid program;
- 458 (ii) in board and care facilities, as defined in the federal Social Security Act, 42  
459 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and  
460 care facility; and
- 461 (iii) who are receiving medical assistance under the Medicaid program as defined in  
462 Section 26B-3-101 in a noninstitutional or other setting;
- 463 (t) (i) report at least twice per year to the Legislative Management Committee on any  
464 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:
- 465 (A) cost the state more than \$500,000; or  
466 (B) require the state to take legally binding action that would cost more than  
467 \$500,000 to implement; and
- 468 (ii) if the meeting is closed, include an estimate of the state's potential financial or

- 469 other legal exposure in that report;
- 470 (u) (i) submit a written report to the committees described in Subsection (1)(u)(ii)
- 471 that summarizes any lawsuit or decision in which a court or the Office of the
- 472 Attorney General has determined that a state statute is unconstitutional or
- 473 unenforceable since the attorney general's last report under this Subsection (1)(u),
- 474 including any:
- 475 (A) settlements reached;
- 476 (B) consent decrees entered;
- 477 (C) judgments issued;
- 478 (D) preliminary injunctions issued;
- 479 (E) temporary restraining orders issued; or
- 480 (F) formal or informal policies of the Office of the Attorney General to not
- 481 enforce a law; and
- 482 (ii) at least 30 days before the Legislature's May and November interim meetings,
- 483 submit the report described in Subsection (1)(u)(i) to:
- 484 (A) the Legislative Management Committee;
- 485 (B) the Judiciary Interim Committee; and
- 486 (C) the Law Enforcement and Criminal Justice Interim Committee;
- 487 (v) if the attorney general operates the Office of the Attorney General or any portion of
- 488 the Office of the Attorney General as an internal service fund agency in accordance
- 489 with Section 67-5-4, submit to the rate committee established in Section 67-5-34:
- 490 (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
- 491 (ii) any other information or analysis requested by the rate committee;
- 492 (w) before the end of each calendar year, create an annual performance report for the
- 493 Office of the Attorney General and post the report on the attorney general's website;
- 494 (x) ensure that any training required under this chapter complies with Title 63G, Chapter
- 495 22, State Training and Certification Requirements;
- 496 (y) notify the legislative general counsel in writing within three business days after the
- 497 day on which the attorney general is officially notified of a claim, regardless of
- 498 whether the claim is filed in state or federal court, that challenges:
- 499 (i) the constitutionality of a state statute;
- 500 (ii) the validity of legislation; or
- 501 (iii) any action of the Legislature; and
- 502 (z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a

- 503 special advisor to the Office of the Governor and the Office of the Attorney  
 504 General in matters relating to Native American and tribal issues to:
- 505 (A) establish outreach to the tribes and affected counties and communities; and
  - 506 (B) foster better relations and a cooperative framework; and
  - 507 (ii) annually report to the Executive Offices and Criminal Justice Appropriations  
 508 Subcommittee regarding:
    - 509 (A) the status of the work of the special advisor described in Subsection (1)(z)(i);
    - 510 and
    - 511 (B) whether the need remains for the ongoing appropriation to fund the special  
 512 advisor described in Subsection (1)(z)(i)[~~z~~] ; and
  - 513 (aa) ensure compliance with Title 53B, Chapter 27, Part 6, Student Legal  
 514 Representation, by:
    - 515 (i) establishing a process to track the number of complaints submitted by students;
    - 516 (ii) pursuing civil action to enforce statutory protections; and
    - 517 (iii) no later than November 1 each year, reporting to the Judiciary Interim  
 518 Committee regarding the attorney general's enforcement under this Subsection  
 519 (1)(aa).
  - 520 (2) (a) The attorney general may require a district attorney or county attorney of the state  
 521 to, upon request, report on the status of public business entrusted to the district or  
 522 county attorney's charge.
  - 523 (b) The attorney general may review investigation results de novo and file criminal  
 524 charges, if warranted, in any case involving a first degree felony, if:
    - 525 (i) a law enforcement agency submits investigation results to the county attorney or  
 526 district attorney of the jurisdiction where the incident occurred and the county  
 527 attorney or district attorney:
      - 528 (A) declines to file criminal charges; or
      - 529 (B) fails to screen the case for criminal charges within six months after the law  
 530 enforcement agency's submission of the investigation results; and
    - 531 (ii) after consultation with the county attorney or district attorney of the jurisdiction  
 532 where the incident occurred, the attorney general reasonably believes action by the  
 533 attorney general would not interfere with an ongoing investigation or prosecution  
 534 by the county attorney or district attorney of the jurisdiction where the incident  
 535 occurred.
  - 536 (c) If the attorney general decides to conduct a review under Subsection (2)(b), the



537 district attorney, county attorney, and law enforcement agency shall, within 14 days  
538 after the day on which the attorney general makes a request, provide the attorney  
539 general with:

- 540 (i) all information relating to the investigation, including all reports, witness lists,  
541 witness statements, and other documents created or collected in relation to the  
542 investigation;
- 543 (ii) all recordings, photographs, and other physical or digital media created or  
544 collected in relation to the investigation;
- 545 (iii) access to all evidence gathered or collected in relation to the investigation; and  
546 (iv) the identification of, and access to, all officers or other persons who have  
547 information relating to the investigation.
- 548 (d) If a district attorney, county attorney, or law enforcement agency fails to timely  
549 comply with Subsection (2)(c), the attorney general may seek a court order  
550 compelling compliance.
- 551 (e) If the attorney general seeks a court order under Subsection (2)(d), the court shall  
552 grant the order unless the district attorney, county attorney, or law enforcement  
553 agency shows good cause and a compelling interest for not complying with  
554 Subsection (2)(c).

555 Section 12. **Effective date.**

556 This bill takes effect on May 1, 2024.