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CRIME VICTIMS RESTITUTION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions related to victim reparations and the Utah Office for Victims of Crimes.

Highlighted Provisions:

This bill:

- requires law enforcement agencies to provide copies of investigative reports to the Utah Office for Victims of Crimes to assist the office in performing its official duties;
- establishes timelines, procedures, and sharing restrictions in relation to the request and provision of documents;
- establishes a criminal penalty for unauthorized use or distribution of an investigative report; and
- makes conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

77-37-4, as last amended by Laws of Utah 2022, Chapter 335

ENACTS:

63M-7-527, Utah Code Annotated 1953

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

28 Section 1. Section **63M-7-502** is amended to read:

29 **63M-7-502 . Definitions.**

30 As used in this part:

31 (1) "Accomplice" means an individual who has engaged in criminal conduct as described in
32 Section 76-2-202.

33 (2) "Advocacy services provider" means the same as that term is defined in Section
34 77-38-403.

35 (3) "Board" means the Crime Victim Reparations and Assistance Board created under
36 Section 63M-7-504.

37 (4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

38 (5) "Claimant" means any of the following claiming reparations under this part:

39 (a) a victim;

40 (b) a dependent of a deceased victim; or

41 (c) an individual or representative who files a reparations claim on behalf of a victim.

42 (6) "Child" means an unemancipated individual who is under 18 years old.

43 (7) "Collateral source" means any source of benefits or advantages for economic loss
44 otherwise reparable under this part that the victim or claimant has received, or that is
45 readily available to the victim from:

46 (a) the offender;

47 (b) the insurance of the offender or the victim;

48 (c) the United States government or any of its agencies, a state or any of its political
49 subdivisions, or an instrumentality of two or more states, except in the case on
50 nonobligatory state-funded programs;

51 (d) social security, Medicare, and Medicaid;

52 (e) state-required temporary nonoccupational income replacement insurance or disability
53 income insurance;

54 (f) workers' compensation;

55 (g) wage continuation programs of any employer;

56 (h) proceeds of a contract of insurance payable to the victim for the loss the victim
57 sustained because of the criminally injurious conduct;

58 (i) a contract providing prepaid hospital and other health care services or benefits for
59 disability; or

60 (j) veteran's benefits, including veteran's hospitalization benefits.

61 (8) "Criminal justice system victim advocate" means the same as that term is defined in

- 62 Section 77-38-403.
- 63 (9) (a) "Criminally injurious conduct" other than acts of war declared or not declared
64 means conduct that:
- 65 (i) is or would be subject to prosecution in this state under Section 76-1-201;
66 (ii) occurs or is attempted;
67 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
68 (iv) is punishable by fine, imprisonment, or death if the individual engaging in the
69 conduct possessed the capacity to commit the conduct; and
70 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,
71 aircraft, or water craft, unless the conduct is:
- 72 (A) intended to cause bodily injury or death;
73 (B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or
74 (C) chargeable as an offense for driving under the influence of alcohol or drugs.
- 75 (b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and
76 other conduct leading to the psychological injury of an individual resulting from
77 living in a setting that involves a bigamous relationship.
- 78 (10) (a) "Dependent" means a natural person to whom the victim is wholly or partially
79 legally responsible for care or support.
- 80 (b) "Dependent" includes a child of the victim born after the victim's death.
- 81 (11) "Dependent's economic loss" means loss after the victim's death of contributions of
82 things of economic value to the victim's dependent, not including services the dependent
83 would have received from the victim if the victim had not suffered the fatal injury, less
84 expenses of the dependent avoided by reason of victim's death.
- 85 (12) "Dependent's replacement services loss" means loss reasonably and necessarily
86 incurred by the dependent after the victim's death in obtaining services in lieu of those
87 the decedent would have performed for the victim's benefit if the victim had not suffered
88 the fatal injury, less expenses of the dependent avoided by reason of the victim's death
89 and not subtracted in calculating the dependent's economic loss.
- 90 (13) "Director" means the director of the office.
- 91 (14) "Disposition" means the sentencing or determination of penalty or punishment to be
92 imposed upon an individual:
- 93 (a) convicted of a crime;
94 (b) found delinquent; or
95 (c) against whom a finding of sufficient facts for conviction or finding of delinquency is

96 made.

97 (15) (a) "Economic loss" means economic detriment consisting only of allowable
98 expense, work loss, replacement services loss, and if injury causes death, dependent's
99 economic loss and dependent's replacement service loss.

100 (b) "Economic loss" includes economic detriment even if caused by pain and suffering
101 or physical impairment.

102 (c) "Economic loss" does not include noneconomic detriment.

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

104 (17) "Fraudulent claim" means a filed reparations based on material misrepresentation of
105 fact and intended to deceive the reparations staff for the purpose of obtaining reparation
106 funds for which the claimant is not eligible.

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

108 (19) (a) "Interpersonal violence" means an act involving violence, physical harm, or a
109 threat of violence or physical harm, that is committed by an individual who is or has
110 been in a domestic, dating, sexual, or intimate relationship with the victim.

111 (b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act
112 described in Subsection (19)(a).

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

116 [~~(20)~~] (21) "Law enforcement officer" means the same as that term is defined in Section
117 53-13-103.

118 [~~(21)~~] (22) (a) "Medical examination" means a physical examination necessary to
119 document criminally injurious conduct.

120 (b) "Medical examination" does not include mental health evaluations for the
121 prosecution and investigation of a crime.

122 [~~(22)~~] (23) "Mental health counseling" means outpatient and inpatient counseling
123 necessitated as a result of criminally injurious conduct, is subject to rules made by the
124 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

125 [~~(23)~~] (24) "Misconduct" means conduct by the victim that was attributable to the injury or
126 death of the victim as provided by rules made by the board in accordance with Title
127 63G, Chapter 3, Utah Administrative Rulemaking Act.

128 [~~(24)~~] (25) "Noneconomic detriment" means pain, suffering, inconvenience, physical
129 impairment, and other nonpecuniary damage, except as provided in this part.

130 ~~[(25)]~~ (26) "Nongovernment organization victim advocate" means the same as that term is
131 defined in Section 77-38-403.

132 ~~[(26)]~~ (27) "Pecuniary loss" does not include loss attributable to pain and suffering except as
133 otherwise provided in this part.

134 ~~[(27)]~~ (28) "Offender" means an individual who has violated Title 76, Utah Criminal Code,
135 through criminally injurious conduct regardless of whether the individual is arrested,
136 prosecuted, or convicted.

137 ~~[(28)]~~ (29) "Offense" means a violation of Title 76, Utah Criminal Code.

138 ~~[(29)]~~ (30) "Office" means the director, the reparations and assistance officers, and any other
139 staff employed for the purpose of carrying out the provisions of this part.

140 ~~[(30)]~~ (31) "Perpetrator" means the individual who actually participated in the criminally
141 injurious conduct.

142 ~~[(31)]~~ (32) "Reparations award" means money or other benefits provided to a claimant or to
143 another on behalf of a claimant after the day on which a reparations claim is approved
144 by the office.

145 ~~[(32)]~~ (33) "Reparations claim" means a claimant's request or application made to the office
146 for a reparations award.

147 ~~[(33)]~~ (34) (a) "Reparations officer" means an individual employed by the office to
148 investigate claims of victims and award reparations under this part.

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

151 ~~[(34)]~~ (35) "Replacement service loss" means expenses reasonably and necessarily incurred
152 in obtaining ordinary and necessary services in lieu of those the injured individual would
153 have performed, not for income but the benefit of the injured individual or the injured
154 individual's dependents if the injured individual had not been injured.

155 ~~[(35)]~~ (36) (a) "Representative" means the victim, immediate family member, legal
156 guardian, attorney, conservator, executor, or an heir of an individual.

157 (b) "Representative" does not include a service provider or collateral source.

158 ~~[(36)]~~ (37) "Restitution" means the same as that term is defined in Section 77-38b-102.

159 ~~[(37)]~~ (38) "Secondary victim" means an individual who is traumatically affected by the
160 criminally injurious conduct subject to rules made by the board in accordance with Title
161 63G, Chapter 3, Utah Administrative Rulemaking Act.

162 ~~[(38)]~~ (39) "Service provider" means an individual or agency who provides a service to a
163 victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

- 164 ~~[(39)]~~ (40) "Serious bodily injury" means the same as that term is defined in Section
 165 76-1-101.5.
- 166 ~~[(40)]~~ (41) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5,
 167 Part 4, Sexual Offenses.
- 168 ~~[(41)]~~ (42) "Strangulation" means any act involving the use of unlawful force or violence
 169 that:
- 170 (a) impedes breathing or the circulation of blood; and
 171 (b) is likely to produce a loss of consciousness by:
- 172 (i) applying pressure to the neck or throat of an individual; or
 173 (ii) obstructing the nose, mouth, or airway of an individual.
- 174 ~~[(42)]~~ (43) "Substantial bodily injury" means the same as that term is defined in Section
 175 76-1-101.5.
- 176 ~~[(43)]~~ (44) (a) "Victim" means an individual who suffers bodily or psychological injury
 177 or death as a direct result of:
- 178 (i) criminally injurious conduct; or
 179 (ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1
 180 if the individual is a minor.
- 181 (b) "Victim" does not include an individual who participated in or observed the judicial
 182 proceedings against an offender unless otherwise provided by statute or rule made in
 183 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 184 ~~[(44)]~~ (45) "Work loss" means loss of income from work the injured victim would have
 185 performed if the injured victim had not been injured and expenses reasonably incurred
 186 by the injured victim in obtaining services in lieu of those the injured victim would have
 187 performed for income, reduced by any income from substitute work the injured victim
 188 was capable of performing but unreasonably failed to undertake.
- 189 Section 2. Section **63M-7-527** is enacted to read:
- 190 **63M-7-527 . Determination of eligibility for victim reparations -- Law**
 191 **enforcement agency to provide investigative reports -- Restrictions on usage --**
 192 **Criminal penalty.**
- 193 (1) (a) Notwithstanding Section 63G-2-206, and subject to Subsection (1)(c), a law
 194 enforcement agency shall provide a copy of an investigative report that describes the
 195 facts and circumstances of a criminal episode within 10 business days of the date the
 196 law enforcement agency receives a request for that information from the office.
- 197 (b) Before releasing an investigative report, the law enforcement agency may redact the

- 198 following information:
- 199 (i) the name of:
- 200 (A) an undercover officer; or
- 201 (B) a confidential informant; and
- 202 (ii) any information that would:
- 203 (A) jeopardize the investigation; or
- 204 (B) disclose law enforcement techniques not generally known to the public.
- 205 (c) If a criminal episode remains under investigation when the office requests an
- 206 investigative report and the law enforcement agency determines that release of an
- 207 investigative report at that time would jeopardize the investigation, a law
- 208 enforcement agency may provide a detailed description of the following information,
- 209 instead of providing an investigative report, within 10 business days of the date the
- 210 law enforcement agency received the original request from the office:
- 211 (i) the law enforcement agency's case number;
- 212 (ii) the location where the criminal episode occurred;
- 213 (iii) the criminal conduct under investigation;
- 214 (iv) a summary of the criminal episode;
- 215 (v) verification that the claimant is a victim of the criminal conduct;
- 216 (vi) any information regarding whether the claimant's conduct may have contributed
- 217 to the criminal conduct; and
- 218 (vii) whether the claimant was and continues to be cooperative with law enforcement.
- 219 (d) An investigative report provided under Subsection (1)(a), or information provided
- 220 under Subsection (1)(c), shall contain sufficient information for the office to
- 221 determine whether a claimant is eligible for a reparations award under Sections
- 222 63M-7-509 and 63M-7-510.
- 223 (e) If an investigative report or information provided to the office by a law enforcement
- 224 agency is not sufficient for the office to determine whether a claimant is eligible for a
- 225 reparations award, the office may contact the law enforcement agency for additional
- 226 information.
- 227 (f) (i) A law enforcement agency may give written notice that a request may take up
- 228 to an additional 10 business days to process if exigent circumstances exist, which
- 229 include:
- 230 (A) a circumstance where another agency is using relevant documents;
- 231 (B) the request requires review of a voluminous amount of documents;

- 232 (C) the request requires legal review;
233 (D) the request requires extensive redaction;
234 (E) the law enforcement agency is currently processing multiple requests; or
235 (F) other exigent circumstances.
- 236 (ii) Notice of an extended response time shall include the type of exigent
237 circumstances involved and the new due date for the response.
- 238 (2) (a) An investigative report provided under this section may only be used for the
239 purpose of carrying out the provisions of this part.
- 240 (b) An investigative report received under this section:
- 241 (i) may only be viewed by the office, the board, and legal counsel for the office; and
242 (ii) may not be further disclosed or disseminated for any reason.
- 243 (3) The office shall dispose of or retain an investigative report received under this section in
244 a secure manner.
- 245 (4) An investigative report provided to the office under this section is not subject to the
246 provisions of Title 63G, Chapter 2, Government Records Access and Management Act.
- 247 (5) A public employee or other person who knowingly or intentionally uses or distributes
248 an investigative report, or information received from an investigative report, in violation
249 of the requirements of Subsection (2) is guilty of a class B misdemeanor.

250 Section 3. Section 77-37-4 is amended to read:

251 **77-37-4 . Additional rights -- Children.**

252 In addition to all rights afforded to victims and witnesses under this chapter, child
253 victims and witnesses shall be afforded these rights:

- 254 (1) Children have the right to protection from physical and emotional abuse during their
255 involvement with the criminal justice process.
- 256 (2) Children are not responsible for inappropriate behavior adults commit against them and
257 have the right not to be questioned, in any manner, nor to have allegations made,
258 implying this responsibility. Those who interview children have the responsibility to
259 consider the interests of the child in this regard.
- 260 (3) Child victims and witnesses have the right to have interviews relating to a criminal
261 prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that
262 they are conducted by persons sensitive to the needs of children.
- 263 (4) Child victims have the right to be informed of available community resources that might
264 assist them and how to gain access to those resources. Law enforcement and
265 prosecutors have the duty to ensure that child victims are informed of community

266 resources, including counseling prior to the court proceeding, and have those services
267 available throughout the criminal justice process.

268 (5) (a) Child victims have the right, once an investigation has been initiated by law
269 enforcement or the Division of Child and Family Services, to keep confidential their
270 interviews that are conducted at a Children's Justice Center, including video and
271 audio recordings, and transcripts of those recordings. Except as provided in
272 Subsection (6), recordings and transcripts of interviews may not be distributed,
273 released, or displayed to anyone without a court order.

274 (b) A court order described in Subsection (5)(a):

275 (i) shall describe with particularity to whom the recording or transcript of the
276 interview may be released and prohibit further distribution or viewing by anyone
277 not named in the order; and

278 (ii) may impose restrictions on access to the materials considered reasonable to
279 protect the privacy of the child victim.

280 (c) A parent or guardian of the child victim may petition a juvenile or district court for
281 an order allowing the parent or guardian to view a recording or transcript upon a
282 finding of good cause. The order shall designate the agency that is required to
283 display the recording or transcript to the parent or guardian and shall prohibit viewing
284 by anyone not named in the order.

285 (d) Following the conclusion of any legal proceedings in which the recordings or
286 transcripts are used, the court shall order the recordings and transcripts in the court's
287 file sealed and preserved.

288 (6) (a) The following offices and their designated employees may distribute and receive
289 a recording or transcript to and from one another without a court order:

290 (i) the Division of Child and Family Services;

291 (ii) administrative law judges employed by the Department of Human Services;

292 (iii) Department of Human Services investigators investigating the Division of Child
293 and Family Services or investigators authorized to investigate under Section
294 80-2-703;

295 (iv) an office of the city attorney, county attorney, district attorney, or attorney
296 general;

297 (v) a law enforcement agency;

298 (vi) a Children's Justice Center established under Section 67-5b-102; or

299 (vii) the attorney for the child who is the subject of the interview.

- 300 (b) In a criminal case or in a juvenile court in which the state is a party:
- 301 (i) the parties may display and enter into evidence a recording or transcript in the
- 302 course of a prosecution;
- 303 (ii) the state's attorney may distribute a recording or transcript to the attorney for the
- 304 defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid
- 305 request for discovery;
- 306 (iii) the attorney for the defendant or respondent may do one or both of the following:
- 307 (A) release the recording or transcript to an expert retained by the attorney for the
- 308 defendant or respondent if the expert agrees in writing that the expert will not
- 309 distribute, release, or display the recording or transcript to anyone without prior
- 310 authorization from the court; or
- 311 (B) permit the defendant or respondent to view the recording or transcript, but
- 312 may not distribute or release the recording or transcript to the defendant or
- 313 respondent; and
- 314 (iv) the court shall advise a pro se defendant or respondent that a recording or
- 315 transcript received as part of discovery is confidential and may not be distributed,
- 316 released, or displayed without prior authorization from the court.
- 317 (c) A court's failure to advise a pro se defendant or respondent that a recording or
- 318 transcript received as part of discovery is confidential and may not be used as a
- 319 defense to prosecution for a violation of the disclosure rule.
- 320 (d) In an administrative case, pursuant to a written request, the Division of Child and
- 321 Family Services may display, but may not distribute or release, a recording or
- 322 transcript to the respondent or to the respondent's designated representative.
- 323 (e) (i) Within two business days of a request from a parent or guardian of a child
- 324 victim, an investigative agency shall allow the parent or guardian to view a
- 325 recording after the conclusion of an interview, unless:
- 326 (A) the suspect is a parent or guardian of the child victim;
- 327 (B) the suspect resides in the home with the child victim; or
- 328 (C) the investigative agency determines that allowing the parent or guardian to
- 329 view the recording would likely compromise or impede the investigation.
- 330 (ii) If the investigative agency determines that allowing the parent or guardian to
- 331 view the recording would likely compromise or impede the investigation, the
- 332 parent or guardian may petition a juvenile or district court for an expedited
- 333 hearing on whether there is good cause for the court to enter an order allowing the

- 334 parent or guardian to view the recording in accordance with Subsection (5)(c).
335 (iii) A Children's Justice Center shall coordinate the viewing of the recording
336 described in this Subsection (6)(e).
- 337 (f) A multidisciplinary team assembled by a Children's Justice Center or an
338 interdisciplinary team assembled by the Division of Child and Family Services may
339 view a recording or transcript, but may not receive a recording or transcript.
- 340 (g) A Children's Justice Center:
341 (i) may distribute or display a recording or transcript to an authorized trainer or
342 evaluator for purposes of training or evaluation; and
343 (ii) may display, but may not distribute, a recording or transcript to an authorized
344 trainee.
- 345 (h) An authorized trainer or instructor may display a recording or transcript according to
346 the terms of the authorized trainer's or instructor's contract with the Children's Justice
347 Center or according to the authorized trainer's or instructor's scope of employment.
- 348 (i) (i) In an investigation under Section 53E-6-506, in which a child victim who is the
349 subject of the recording or transcript has alleged criminal conduct against an
350 educator, a law enforcement agency may distribute or release the recording or
351 transcript to an investigator operating under State Board of Education
352 authorization, upon the investigator's written request.
353 (ii) If the respondent in a case investigated under Section 53E-6-506 requests a
354 hearing authorized under that section, the investigator operating under State Board
355 of Education authorization may display, release, or distribute the recording or
356 transcript to the prosecutor operating under State Board of Education
357 authorization or to an expert retained by an investigator.
358 (iii) Upon request for a hearing under Section 53E-6-506, a prosecutor operating
359 under State Board of Education authorization may display the recording or
360 transcript to a pro se respondent, to an attorney retained by the respondent, or to
361 an expert retained by the respondent.
362 (iv) The parties to a hearing authorized under Section 53E-6-506 may display and
363 enter into evidence a recording or transcript in the course of a prosecution.
- 364 (j) Notwithstanding any other provision in this section, a law enforcement agency shall
365 provide an investigative report to the Utah Office for Victims of Crime as provided
366 under Section 63M-7-527.
- 367 (7) Except as otherwise provided in this section, it is a class B misdemeanor for any

368 individual to distribute, release, or display any recording or transcript of an interview of
369 a child victim conducted at a Children's Justice Center.

370 Section 4. **Effective date.**

371 This bill takes effect on May 1, 2024.