

ATTORNEY GENERAL AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses the duties of the attorney general.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

67-5-1 . General duties and restrictions.

(1) The attorney general shall:

(a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

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

- 29 process as necessary to execute the judgment;
- 30 (d) account for, and pay over to the proper officer, all money that comes into the
31 attorney general's possession that belongs to the state;
- 32 (e) keep a file of all cases in which the attorney general is required to appear, including
33 any documents and papers showing the court in which the cases have been instituted
34 and tried, and whether they are civil or criminal, and:
- 35 (i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted
36 to judgment, a memorandum of the judgment and of any process issued if
37 satisfied, and if not satisfied, documentation of the return of the sheriff;
- 38 (ii) if criminal, the nature of the crime, the mode of prosecution, the stage of
39 proceedings, and, when prosecuted to sentence, a memorandum of the sentence
40 and of the execution, if the sentence has been executed, and, if not executed, the
41 reason for the delay or prevention; and
- 42 (iii) deliver this information to the attorney general's successor in office;
- 43 (f) exercise supervisory powers over the district and county attorneys of the state in all
44 matters pertaining to the duties of the district and county attorneys' offices, including
45 the authority described in Subsection (2);
- 46 (g) give the attorney general's opinion in writing and without fee, when required, upon
47 any question of law relating to the office of the requester:
- 48 (i) in accordance with Section 67-5-1.1, to the Legislature or either house;
- 49 (ii) to any state officer, board, or commission; and
- 50 (iii) to any county attorney or district attorney;
- 51 (h) when required by the public service or directed by the governor, assist any county,
52 district, or city attorney in the discharge of county, district, or city attorney's duties;
- 53 (i) purchase in the name of the state, under the direction of the state Board of Examiners,
54 any property offered for sale under execution issued upon judgments in favor of or
55 for the use of the state, and enter satisfaction in whole or in part of the judgments as
56 the consideration of the purchases;
- 57 (j) when the property of a judgment debtor in any judgment mentioned in Subsection
58 (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or
59 encumbrance taking precedence of the judgment in favor of the state, redeem the
60 property, under the direction of the state Board of Examiners, from the prior
61 judgment, lien, or encumbrance, and pay all money necessary for the redemption,
62 upon the order of the state Board of Examiners, out of any money appropriated for

- 63 these purposes;
- 64 (k) when in the attorney general's opinion it is necessary for the collection or
65 enforcement of any judgment, institute and prosecute on behalf of the state any action
66 or proceeding necessary to set aside and annul all conveyances fraudulently made by
67 the judgment debtors, and pay the cost necessary to the prosecution, when allowed by
68 the state Board of Examiners, out of any money not otherwise appropriated;
- 69 (l) discharge the duties of a member of all official boards of which the attorney general
70 is or may be made a member by the Utah Constitution or by the laws of the state, and
71 other duties prescribed by law;
- 72 (m) institute and prosecute proper proceedings in any court of the state or of the United
73 States to restrain and enjoin corporations organized under the laws of this or any
74 other state or territory from acting illegally or in excess of their corporate powers or
75 contrary to public policy, and in proper cases forfeit their corporate franchises,
76 dissolve the corporations, and wind up their affairs;
- 77 (n) institute investigations for the recovery of all real or personal property that may have
78 escheated or should escheat to the state, and for that purpose, subpoena any persons
79 before any of the district courts to answer inquiries and render accounts concerning
80 any property, examine all books and papers of any corporations, and when any real or
81 personal property is discovered that should escheat to the state, institute suit in the
82 district court of the county where the property is situated for its recovery, and escheat
83 that property to the state;
- 84 (o) administer the Children's Justice Center as a program to be implemented in various
85 counties pursuant to Sections 67-5b-101 through 67-5b-107;
- 86 (p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a,
87 Constitutional and Federalism Defense Act;
- 88 (q) pursue any appropriate legal action to implement the state's public lands policy
89 established in Section 63C-4a-103;
- 90 (r) investigate and prosecute violations of all applicable state laws relating to fraud in
91 connection with the state Medicaid program and any other medical assistance
92 program administered by the state, including violations of Title 26B, Chapter 3, Part
93 11, Utah False Claims Act;
- 94 (s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:
95 (i) in health care facilities that receive payments under the state Medicaid program;
96 (ii) in board and care facilities, as defined in the federal Social Security Act, 42

- 97 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and
98 care facility; and
- 99 (iii) who are receiving medical assistance under the Medicaid program as defined in
100 Section 26B-3-101 in a noninstitutional or other setting;
- 101 (t) (i) 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 (A) cost the state more than \$500,000; or
104 (B) require the state to take legally binding action that would cost more than
105 \$500,000 to implement; and
- 106 (ii) if the meeting is closed, include an estimate of the state's potential financial or
107 other legal exposure in that report;
- 108 (u) (i) submit a written report to the committees described in Subsection (1)(u)(ii)
109 that summarizes any lawsuit or decision in which a court or the Office of the
110 Attorney General has determined that a state statute is unconstitutional or
111 unenforceable since the attorney general's last report under this Subsection (1)(u),
112 including any:
- 113 (A) settlements reached;
114 (B) consent decrees entered;
115 (C) judgments issued;
116 (D) preliminary injunctions issued;
117 (E) temporary restraining orders issued; or
118 (F) formal or informal policies of the Office of the Attorney General to not
119 enforce a law; and
- 120 (ii) at least 30 days before the Legislature's May and November interim meetings,
121 submit the report described in Subsection (1)(u)(i) to:
122 (A) the Legislative Management Committee;
123 (B) the Judiciary Interim Committee; and
124 (C) the Law Enforcement and Criminal Justice Interim Committee;
- 125 (v) if the attorney general operates the Office of the Attorney General or any portion of
126 the Office of the Attorney General as an internal service fund agency in accordance
127 with Section 67-5-4, submit to the rate committee established in Section 67-5-34:
128 (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
129 (ii) any other information or analysis requested by the rate committee;
- 130 (w) before the end of each calendar year, create an annual performance report for the

- 131 Office of the Attorney General and post the report on the attorney general's website;
- 132 (x) ensure that any training required under this chapter complies with Title 63G, Chapter
133 22, State Training and Certification Requirements;
- 134 (y) notify the legislative general counsel in writing within three business days after the
135 day on which the attorney general is officially notified of a claim, regardless of
136 whether the claim is filed in state or federal court, that challenges:
- 137 (i) the constitutionality of a state statute;
- 138 (ii) the validity of legislation; or
- 139 (iii) any action of the Legislature; and
- 140 (z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a
141 special advisor to the Office of the Governor and the Office of the Attorney
142 General in matters relating to Native American and tribal issues to:
- 143 (A) establish outreach to the tribes and affected counties and communities; and
- 144 (B) foster better relations and a cooperative framework; and
- 145 (ii) annually report to the Executive Offices and Criminal Justice Appropriations
146 Subcommittee regarding:
- 147 (A) the status of the work of the special advisor described in Subsection (1)(z)(i);
148 and
- 149 (B) whether the need remains for the ongoing appropriation to fund the special
150 advisor described in Subsection (1)(z)(i).
- 151 (2) (a) The attorney general may require a district attorney or county attorney of the state
152 to, upon request, report on the status of public business entrusted to the district or
153 county attorney's charge.
- 154 (b) The attorney general may review investigation results de novo and file criminal
155 charges, if warranted, in any case involving a first degree felony, if:
- 156 (i) a law enforcement agency submits investigation results to the county attorney or
157 district attorney of the jurisdiction where the incident occurred and the county
158 attorney or district attorney:
- 159 (A) declines to file criminal charges; or
- 160 (B) fails to screen the case for criminal charges within six months after the law
161 enforcement agency's submission of the investigation results; and
- 162 (ii) after consultation with the county attorney or district attorney of the jurisdiction
163 where the incident occurred, the attorney general reasonably believes action by the
164 attorney general would not interfere with an ongoing investigation or prosecution

165 by the county attorney or district attorney of the jurisdiction where the incident
166 occurred.

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

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

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

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

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

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

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

186 (3) The attorney general:

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

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

189 Section 2. **Effective date.**

190 This bill takes effect on May 1, 2024.