

[Utah Code](#)

[Title 63M](#) Governor's Programs

[Chapter 7](#) Criminal Justice and Substance Abuse

63M-7-505. Board and office within Commission on Criminal and Juvenile Justice.

(1) The Crime Victim Reparations Board and Office of Crime Victim Reparations are placed within the Commission on Criminal and Juvenile Justice for the provision by the commission of administrative and support services.

(2) The board or the director may request assistance from the Commission on Criminal and Juvenile Justice, the Department of Public Safety, and other state agencies in conducting research or monitoring victims' programs.

63M-7-506. Functions of board.

(1) The Crime Victim Reparations Board shall:

(a) adopt a description of the organization and prescribe the general operation of the board;

(b) prescribe policy for the Office of Crime Victim Reparations;

(c) adopt rules to implement and administer Sections **63M-7-501** through **63M-7-525** pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may include setting of ceilings on reparations, defining of terms not specifically stated in this chapter, and establishing of rules governing attorney fees;

(d) prescribe forms for applications for reparations;

(e) review all awards made by the reparations staff, although the board may not reverse or modify awards authorized by the reparations staff;

(f) render an annual report to the governor and the Legislature regarding the staff's and the board's activities;

(g) cooperate with the director and the director's staff in formulating standards for the uniform application of Section **63M-7-509**, taking into consideration the rates and amounts of reparation payable for injuries and death under other laws of this state and the United States;

(h) allocate money available in the Crime Victim Reparations Fund to victims of criminally injurious conduct for reparations claims; and

(i) allocate money available to other victim services as provided by administrative rule once a sufficient reserve has been established for reparation claims.

(2) All rules, or other statements of policy, along with application forms specified by the board, are binding upon the director, the reparations officers, and other staff.

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63M-7-507. Director -- Appointment and functions.

The executive director of the Commission on Criminal and Juvenile Justice, after consulting with the board, shall appoint a director to carry out the provisions of this chapter. The director shall be an experienced administrator with a background in at least one of the following fields: social work, psychology, criminal justice, law, or a related field. The director shall demonstrate an understanding of the needs of crime victims and of services to victims. The director shall devote the director's time and capacity to the director's duties. The director shall:

(1) hire staff, including reparations officers, as necessary;

(2) act when necessary as a reparations officer in deciding initial claims;

(3) possess the same investigation and decision-making authority as the reparations officers;

(4) hear appeals from the decisions of the reparations officers, unless the director acted as a reparations officer on the initial claim;

(5) serve as a liaison between the Office of Crime Victim Reparations and the board;

(6) serve as the public relations representative of the office;

(7) provide for payment of all administrative salaries, fees, and expenses incurred by the staff of the board, to be paid out of appropriations from the fund;

(8) cooperate with the state treasurer and the state Division of Finance in causing the funds in the trust fund to be invested and its investments sold or exchanged and the proceeds and income collected;

(9) apply for, receive, allocate, disburse, and account for grants of funds made available by the United States, the state, foundations, corporations, and other businesses, agencies, or individuals;

(10) obtain and utilize the services of other governmental agencies upon request; and

(11) act in any other capacity or perform any other acts necessary for the office or board to successfully fulfill its statutory objectives.

63M-7-508. Reparations officers.

The reparations officers shall in addition to any assignments made by the director of the Office of Crime Victim Reparations:

(1) hear and determine all matters relating to claims for reparations and reinvestigate or reopen claims without regard to statutes of limitation or periods of prescription;

(2) obtain from prosecuting attorneys, law enforcement officers, and other criminal justice agencies, investigations and data to enable the reparations officer to determine whether and to what extent a claimant qualifies for reparations;

(3) as determined necessary by the reparations officers, hold hearings, administer oaths or affirmations, examine any person under oath or affirmation, issue subpoenas requiring the attendance and giving of testimony of witnesses, require the production of any books, papers, documents, or other evidence which may contribute to the reparations officer's ability to determine particular reparation awards;

(4) determine who is a victim or dependent;

(5) award reparations or other benefits determined to be due under this chapter and the rules of the board;

(6) take notice of judicially recognized facts and general, technical, and scientific facts within their specialized knowledge;

(7) advise and assist the board in developing policies recognizing the rights, needs, and interests of crime victims;

(8) render periodic reports as requested by the board concerning:

(a) the officers' activities; and

(b) the manner in which the rights, needs, and interests of crime victims are being addressed by the state's criminal justice system;

(9) establish priorities for assisting elderly victims of crime or those victims facing extraordinary hardships;

(10) cooperate with the Commission on Criminal and Juvenile Justice to develop information regarding crime victims' problems and programs; and

(11) assist the director in publicizing the provisions of the Crime Victim Reparations Act, including the procedures for obtaining reparation, and in encouraging law enforcement agencies, health providers, and other related officials to take reasonable care to ensure that victims are informed about the provisions of this chapter and the procedure for applying for reparation.

63M-7-509. Grounds for eligibility.

In order to be eligible for a reparations award under this chapter:

(1) The claimant shall be:

(a) a victim of criminally injurious conduct;

(b) a dependent of a deceased victim of criminally injurious conduct; or

(c) a representative acting on behalf of one of the above.

(2) (a) The criminally injurious conduct shall have occurred in Utah, except as provided in Subsection (2)(b).

(b) If a Utah resident suffers injury or death as a result of criminally injurious conduct inflicted in a state, territory, or country which does not provide a crime victims' compensation program, that person shall receive the same consideration under this chapter as if the criminally injurious conduct occurred in this state.

(3) The application shall be made in writing in a form that conforms substantially to that prescribed by the board.

(4) The criminally injurious conduct shall be reported to a law enforcement officer, in the law enforcement officer's capacity as a law enforcement officer, or other federal or state investigative agencies.

(5) (a) The claimant or victim shall cooperate with the appropriate law enforcement agencies

and prosecuting attorneys in their efforts to apprehend or convict the perpetrator of the alleged offense.

(b) An award to a victim may be made whether any person is arrested, prosecuted, or convicted of the criminally injurious conduct giving rise to the claim.

(6) The criminally injurious conduct shall have occurred after December 31, 1986.

63M-7-510 (Effective 11/01/10). Ineligible persons -- Fraudulent claims -- Penalties.

(1) The following individuals are not eligible to receive an award of reparations:

(a) persons who do not meet all of the provisions set forth in Section **63M-7-509**;

(b) the offender;

(c) an accomplice of the offender;

(d) any person whose receipt of an award would unjustly benefit the offender, accomplice, or other person reasonably suspected of participating in the offense;

(e) the victim of a motor vehicle injury who was the owner or operator of the motor vehicle and was not at the time of the injury in compliance with the state motor vehicle insurance laws;

(f) any convicted offender serving a sentence of imprisonment in any prison or jail or residing in any other correctional facility;

(g) all persons who are on probation or parole if the circumstances surrounding the offense of which they are victims constitute a violation of their parole or probation; and

(h) any person whose injuries are the result of criminally injurious conduct which occurred in a prison, jail, or any other correctional facility while the person was serving a sentence of imprisonment.

(2) A person who knowingly submits a fraudulent claim for reparations or who knowingly misrepresents material facts in making a claim, and who receives an award based on that claim, is guilty of an offense, based on the following award amounts:

(a) for value under \$500, a class B misdemeanor;

(b) for value equal to or greater than \$500, but less than \$1,500, a class A misdemeanor;

(c) for value equal to or greater than \$1,500, but less than \$5,000, a third degree felony; and

(d) for value equal to or greater than \$5,000, a second degree felony.

(3) A person who submits a claim described in Subsection (2) but receives no award based on that claim is guilty of a class B misdemeanor.

(4) The state attorney general may prosecute violations under this section or may make arrangements with county attorneys for the prosecution of violations under this section when the attorney general cannot conveniently prosecute.

(5) The state may also bring a civil action against a claimant who receives reparation payments that are later found to be unjustified and who does not return to the Crime Victim Reparations Fund the unjustified amount.

63M-7-511. Compensable losses and amounts.

A reparations award under this chapter may be made if:

(1) the reparations officer finds the claim satisfies the requirements for the award under the provisions of this chapter and the rules of the board;

(2) monies are available in the fund;

(3) the person for whom the award of reparations is to be paid is otherwise eligible under this part; and

(4) the claim is for an allowable expense incurred by the victim, as follows:

- (a) reasonable and necessary charges incurred for products, services, and accommodations;
- (b) inpatient and outpatient medical treatment and physical therapy, subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (c) mental health counseling which:
 - (i) is set forth in a mental health treatment plan which has been approved prior to any payment by a reparations officer; and
 - (ii) qualifies within any further rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (d) actual loss of past earnings and anticipated loss of future earnings because of a death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the person's weekly gross salary or wages or the maximum amount allowed under the state workers' compensation statute;
- (e) care of minor children enabling a victim or spouse of a victim, but not both of them, to continue gainful employment at a rate per child per week as determined under rules established by the board;
- (f) funeral and burial expenses for death caused by the criminally injurious conduct, subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (g) loss of support to the dependent or dependents not otherwise compensated for a pecuniary loss for personal injury, for as long as the dependence would have existed had the victim survived, at a rate not to exceed 66-2/3% of the person's weekly salary or wages or the maximum amount allowed under the state workers' compensation statute, whichever is less;
- (h) personal property necessary and essential to the health or safety of the victim as defined by rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (i) medical examinations as defined in Section **63M-7-502**, subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from Sections **63M-7-509**, **63M-7-512**, and **63M-7-513**.

63M-7-511.5. Limitation of awards.

- (1) (a) Except as provided in Subsection (1)(b), an award of reparations may not exceed \$25,000 in the aggregate.
 - (b) (i) In claims involving homicide, attempted homicide, aggravated assault, or DUI offenses, an award of reparations may not exceed \$50,000 in the aggregate.
 - (ii) Reparations for nonmedical expenses incurred as a result of the homicide, attempted homicide, aggravated assault, or DUI may not exceed \$25,000.
- (2) (a) Awards of reparations to secondary victims shall be paid from the victims' maximum award amount provided in Subsection (1).
 - (b) When it appears that allowable expenses for the victim and secondary victims will exceed the maximum award amount provided in Subsection (1), the expenses of the victim shall be paid first unless otherwise requested by the claimant.
 - (c) Priority of payment among multiple secondary victims on a single claim shall be determined by the reparations officer.

63M-7-512. Reparations reduction.

(1) Reparations otherwise payable to a claimant may be reduced or denied as follows:

(a) the economic loss upon which the claim is based has been or could be recouped from other persons, including collateral sources;

(b) the reparations officer considers the claim unreasonable because of the misconduct of the claimant or of a victim through whom the claimant claims; or

(c) the victim did not use a facility or health care provider which would be covered by a collateral source.

(2) When two or more dependents are entitled to an award as a result of a victim's death, the award shall be apportioned by the reparations officer among the dependents

63M-7-513. Collateral sources.

(1) Collateral source shall include any source of benefits or advantages for economic loss otherwise reparable under this chapter which the victim or claimant has received, or which is readily available to the victim from:

(a) the offender;

(b) the insurance of the offender;

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

(d) social security, Medicare, and Medicaid;

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

(f) workers' compensation;

(g) wage continuation programs of any employer;

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

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

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

(2) (a) An order of restitution shall not be considered readily available as a collateral source.

(b) Receipt of an award of reparations under this chapter shall be considered an assignment of the victim's rights to restitution from the offender.

(3) The victim shall not discharge a claim against a person or entity without the state's written permission and shall fully cooperate with the state in pursuing its right of reimbursement, including providing the state with any evidence in the victim's possession.

(4) The state's right of reimbursement applies regardless of whether the victim has been fully compensated for the victim's losses.

(5) Notwithstanding the collateral source provisions in Subsection (1) and Subsection **63M-7-512(1)(a)**, a victim of a sexual offense who requests testing of himself may be reimbursed for the costs of the HIV test only as provided in Subsection **76-5-503(4)**.

63M-7-514. Notification of claimant -- Suspension of proceedings.

(1) The Office of Crime Victim Reparations shall immediately notify the claimant in writing of any award and shall forward to the Division of Finance a certified copy of the award and a warrant request for the amount of the award. The Division of Finance shall pay the claimant the

amount submitted to the division, out of the fund. If monies in the fund are temporarily depleted, claimants approved to receive awards shall be placed on a waiting list and shall receive their awards as funds are available in the order in which their awards were approved.

(2) The reparations officer may suspend the proceedings pending disposition of a criminal prosecution that has been commenced or is imminent.

63M-7-515. Rules for contested claims -- Exemption from Administrative Procedures Act.

(1) Rules for procedures for contested determinations by a reparations officer shall be adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The Office of Crime Victim Reparations is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

63M-7-516. Waiver of privilege.

(1) A victim filing a claim under the provisions of this chapter shall be considered to have waived any privilege as to communications or records relevant to an issue of the physical, mental, or emotional conditions of the victim except for the attorney-client privilege. The waiver shall apply only to reparations officers, the director of reparations, the board, and legal counsel.

(2) The claimant may be required to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed.

(3) The reparations officer hearing a claim or an appeal from a claim shall make available to the claimant a copy of the report. If the victim is deceased, the director or the director's appointee, on request, shall furnish the claimant a copy of the report unless dissemination of that copy is prohibited by law.

63M-7-517. Additional testing.

(1) If the mental, physical, or emotional condition of a victim is material to a claim, the reparations officer, director, or chair of the board who hears the claim or the appeal may order the claimant to submit to a mental or physical examination by a physician or psychologist and may recommend to the court to order an autopsy of a deceased victim.

(2) Any order for additional examination shall be for good cause shown and shall provide notice to the person to be examined and the person's representative.

(3) All reports from additional examinations shall set out findings, including results of all tests made, diagnoses, prognoses, other conclusions, and reports of earlier examinations of the same conditions.

(4) A copy of the report shall be made available to the victim or the representative of the victim unless dissemination of that copy is prohibited by law.

63M-7-518. Failure to comply.

If a person refuses to comply with an order under this chapter or asserts a privilege, except privileges arising from the attorney-client relationship, to withhold or suppress evidence relevant to a claim, the director or reparations officer may make any appropriate determination including denial of the claim.

63M-7-519. Assignment of recovery -- Reimbursement.

(1) By accepting an award of reparations, the victim automatically assigns to the state, subject to the provisions of Subsection (2), all claims against any third party to the lesser of:

- (a) the amount paid by the state; or
- (b) the amount recovered from the third party.

(2) The board, with the concurrence of the director, may reduce the state's right of reimbursement if it is determined that:

- (a) the reduction will benefit the fund; or
- (b) the victim has ongoing expenses related to the offense upon which the claim is based and the benefit to the victim of reducing the state's right of reimbursement exceeds the benefit to the state of receiving full reimbursement.

(3) The state reserves the right to make a claim for reimbursement on behalf of the victim and the victim may not impair the state's claim or the state's right of reimbursement.

63M-7-521. Award -- Payment methods -- Claims against the award.

(1) The reparations officer may provide for the payment of an award in a lump sum or in installments. The part of an award equal to the amount of economic loss accrued to the date of the award shall be paid in a lump sum. An award of allowable expense that would accrue after an initial award is made may not be paid in a lump sum. Except as provided in Subsection (2), the part of an award that may not be paid in a lump sum shall be paid in installments.

(2) At the request of the claimant, the reparations officer may convert future economic loss installment payments, other than allowable expense, to a lump sum payment, discounted to present value, but only upon a finding by the officer that the award in a lump sum will promote the interests of the claimant.

(3) An award for future economic loss payable in installments may be made only for a period for which the reparations officer can reasonably determine future economic loss. The reparations officer may reconsider and modify an award for future economic loss payable in installments, upon the reparations officer's finding that a material and substantial change of circumstances has occurred.

(4) An award is not subject to execution, attachment, or garnishment, except that an award for allowable expense is not exempt from a claim of a creditor to the extent that the creditor provided products, services, or accommodations, the costs of which are included in the award.

(5) An assignment or agreement to assign an award of reparations for loss accruing in the future is unenforceable, except:

- (a) an assignment of an award of reparations for work loss to secure payment of alimony, maintenance, or child support;

- (b) an assignment of an award of reparations for allowable expense to the extent that the benefits are for the cost of products, services, or accommodations necessitated by the injury or death on which the claim is based and are provided or to be provided by the assignee; or

- (c) an assignment to repay a loan obtained to pay for the obligations or expenses described in Subsection (5)(a) or (b).

63M-7-521.5. Payments to medical providers.

(1) Except as provided in Subsection (2), a medical service provider who accepts payment from the office shall agree to accept payments as payment in full on behalf of the victim or claimant. The medical service provider may not attempt to collect further payment from the victim or the claimant for services for which the office has made payment.

(2) In the event the office is unable to make full payment in accordance with its rules, the medical service provider may collect from the victim or claimant, but not more than the amount the provider would have received from the office.

(3) The office may:

(a) use the fee schedule utilized by the Utah Public Employees Health Plan or any other fee schedule adopted by the board; and

(b) make rules necessary to implement the fee schedule adopted in accordance with this section.

63M-7-522. Emergency award.

If the reparations officer determines that the claimant will suffer financial hardship unless an emergency award is made, and it appears likely that a final award will be made, an amount may be paid to the claimant, to be deducted from the final award or repaid by and recoverable from the claimant to the extent that it exceeds the final award. The board may limit emergency awards to any amount it considers necessary.

63M-7-523. Review of award decision.

The reparations officer shall review at least annually every award being paid in installments. An order on review of an award does not require refund of amounts previously paid unless the award was obtained by fraud or a material mistake of fact.

63M-7-524. Attorney fees.

(1) The claims procedures shall be sufficiently simple that the assistance of an attorney is unnecessary, and no attorney fees shall be paid for the assistance of an attorney or any other representative in filing the claim or providing information to the reparations officer.

(2) Attorney fees may be granted in the following circumstances and shall be paid out of the reparations award not to exceed 15% of the amount of the reparations award:

(a) when an award has been denied and, after a hearing, the decision to deny is overturned; or

(b) when minor dependents of a deceased victim require assistance in establishing a trust or determining a guardian.

(3) An attorney or any other person providing assistance in a reparations claim, who contracts for or receives sums not allowed under this chapter, is guilty of a class B misdemeanor. This provision shall not extend to attorneys who assist the victim in filing a civil action against the perpetrator.

63M-7-525. Purpose -- Not entitlement program.

(1) The purpose of the Office of Crime Victim Reparations is to assist victims of criminally injurious conduct who may be eligible for assistance from the Crime Victim Reparations Fund. Reparation to a victim is limited to the money available in the fund.

(2) This program is not an entitlement program. Awards may be limited or denied as

determined appropriate by the board. Failure to grant an award does not create a cause of action against the Office of Crime Victim Reparations, the state, or any of its subdivisions. There is no right to judicial review over the decision whether or not to grant an award.

(3) A cause of action based on a failure to give or receive the notice required by this chapter does not accrue to any person against the state, any of its agencies or local subdivisions, any of their law enforcement officers or other agents or employees, or any health care or medical provider or its agents or employees. The failure does not affect or alter any requirement for filing or payment of a claim.