

1 **CASE STATUS UPDATES**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Todd Weiler**

5 House Sponsor: Mike K. McKell

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7 **LONG TITLE**

8 **General Description:**

9 This bill addresses the attorney general's reports to the Legislature.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ requires the attorney general to report to the Legislature on lawsuits that challenge  
13 the constitutionality of state law.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **67-5-1**, as last amended by Laws of Utah 2016, Chapter 120

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

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

24 **67-5-1. General duties.**

25 The attorney general shall:

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

28 (2) except as provided in Sections **10-3-928** and **17-18a-403**, attend the Supreme Court  
29 and the Court of Appeals of this state, and all courts of the United States, and prosecute or

30 defend all causes to which the state or any officer, board, or commission of the state in an  
31 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the  
32 state is interested;

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

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

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

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

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

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

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

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

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

56 (9) purchase in the name of the state, under the direction of the state Board of  
57 Examiners, any property offered for sale under execution issued upon judgments in favor of or

58 for the use of the state, and enter satisfaction in whole or in part of the judgments as the  
59 consideration of the purchases;

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

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

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

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

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

85 (15) administer the Children's Justice Center as a program to be implemented in

86 various counties pursuant to Sections 67-5b-101 through 67-5b-107;

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

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

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

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

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

97 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.  
98 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

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

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

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

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

106 (21) (a) submit a written report to the committees described in Subsection (21)(b) that  
107 summarizes the status and progress of any lawsuits that challenge the constitutionality of state  
108 law that were pending at the time the attorney general submitted the attorney general's last  
109 report under this Subsection (21), including any:

110 (i) settlements reached;

111 (ii) consent decrees entered; or

112 (iii) judgments issued; and

113 (b) at least 30 days before the Legislature's May and November interim meetings,

114 submit the report described in Subsection (21)(a) to:  
115       (i) the Legislative Management Committee;  
116       (ii) the Judiciary Interim Committee; and  
117       (iii) the Law Enforcement and Criminal Justice Interim Committee; and  
118       ~~[(21)]~~ (22) if the attorney general operates the Office of the Attorney General or any  
119 portion of the Office of the Attorney General as an internal service fund agency in accordance  
120 with Section 67-5-4, submit to the rate committee established in Section 67-5-34:  
121       (a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and  
122       (b) any other information or analysis requested by the rate committee.