



Select Victims' Rights – Utah

USING THIS RESOURCE

This resource is intended to provide a base of knowledge regarding crime victims' rights in Utah and promising practices to ensure compliance with and enforcement of those rights. To keep this *Guide* as user-friendly as possible in light of the breadth, complexity and evolving nature of law, the *Guide* does not include all laws. The *Guide* is intended for informational purposes only. It does not constitute legal advice, nor does it substitute for legal advice. For more in-depth information about the laws governing privacy, confidentiality and privilege in Utah, see the companion resource: *Law Enforcement-Based Victim Services in Utah: Privacy, Privilege and Confidentiality*.

The following icons are used throughout this resource to highlight key moments for the user.



= Promising Practices: As used in this *Guide*, the “promising practices” indicator highlights procedures, methods or techniques, grounded in victim-centered and trauma-informed research and experience, that afford victims meaningful rights in the justice system.



= Take Note: As used in this *Guide*, the “take note” indicator provides context for the law cited or discussed. For example, if a law has a particularly narrow application or does not explicitly prohibit an action the “take note” indicator is used to highlight or provide clarity around the law.


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¹ This table of contents and index of rights provides specific page references for many of the victims' rights laws contained within this *Guide*. The referenced laws are often narrower in scope than the broader rights identified in the index and may contain components of multiple core rights. Not all of the laws contained within this *Guide* are referenced in the table of contents and index; therefore, it is recommended that this document be reviewed in full.

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SELECT DEFINITIONS	Utah Statutes and Rules
<p>Crime Victims' Bill of Rights Definitions.</p> <p>In this chapter:</p> <p>(1) "Child" means a person who is younger than 18 years of age, unless otherwise specified in statute. The rights to information as extended in this chapter also apply to the parents, custodian, or legal guardians of children.</p> <p>(2) "Family member" means spouse, child, sibling, parent, grandparent, or legal guardian.</p> <p>(3) "Victim" means a person against whom a crime has allegedly been committed, or against whom an act has allegedly been committed by a juvenile or incompetent adult, which would have been a crime if committed by a competent adult.</p> <p>(4) "Witness" means any person who has been subpoenaed or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether any action or proceeding has commenced.</p> <p> These definitions apply to the Crime Victims' Bill of Rights, Utah Code Ann. § 77-37-3, as well as to the statutory provisions granting additional rights to child-victims, <i>id.</i> at § 77-37-4, and governing remedies, <i>id.</i> at § 77-37-5. These statutory provisions are included below in the section "Select Crime Victims' Rights."</p>	<p>Utah Code Ann. § 77-37-2.</p>
<p>Rights of Crime Victims Act and Victims' Constitutional Rights Definitions.</p> <p>For the purposes of this chapter and the Utah Constitution:</p>	<p>Utah Code Ann. § 77-38-2.</p>

<p>(1) “Abuse” means treating the crime victim in a manner so as to injure, damage, or disparage.</p> <p>(2) “Dignity” means treating the crime victim with worthiness, honor, and esteem.</p> <p>(3) “Fairness” means treating the crime victim reasonably, even-handedly, and impartially.</p> <p>(4) “Harassment” means treating the crime victim in a persistently annoying manner.</p> <p>(5) “Important criminal justice hearings” or “important juvenile justice hearings” means the following proceedings in felony criminal cases or cases involving a minor’s conduct which would be a felony if committed by an adult:</p> <ul style="list-style-type: none"> (a) any preliminary hearing to determine probable cause; (b) any court arraignment where practical; (c) any court proceeding involving the disposition of charges against a defendant or minor or the delay of a previously scheduled trial date but not including any unanticipated proceeding to take an admission or a plea of guilty as charged to all charges previously filed or any plea taken at an initial appearance; (d) any court proceeding to determine whether to release a defendant or minor and, if so, under what conditions release may occur, excluding any such release determination made at an initial appearance; (e) any criminal or delinquency trial, excluding any actions at the trial that a court might take in camera, in chambers, or at a sidebar conference; (f) any court proceeding to determine the disposition of a minor or sentence, fine, or restitution of a defendant or to modify any disposition of a minor or sentence, fine, or restitution of a defendant; and (g) any public hearing concerning whether to grant a defendant or minor parole or other form of discretionary release from confinement. <p>(6) “Reliable information” means information worthy of confidence, including any information whose use at sentencing is permitted by the United States Constitution.</p> <p>(7) “Representative of a victim” means a person who is designated by the victim or</p>	
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<p>designated by the court and who represents the victim in the best interests of the victim.</p> <p>(8) “Respect” means treating the crime victim with regard and value.</p> <p>(9)(a) “Victim of a crime” means any natural person against whom the charged crime or conduct is alleged to have been perpetrated or attempted by the defendant or minor personally or as a party to the offense or conduct or, in the discretion of the court, against whom a related crime or act is alleged to have been perpetrated or attempted, unless the natural person is the accused or appears to be accountable or otherwise criminally responsible for or criminally involved in the crime or conduct or a crime or act arising from the same conduct, criminal episode, or plan as the crime is defined under the laws of this state.</p> <p>(b) For purposes of the right to be present, “victim of a crime” does not mean any person who is in custody as a pretrial detainee, as a prisoner following conviction for an offense, or as a juvenile who has committed an act that would be an offense if committed by an adult, or who is in custody for mental or psychological treatment.</p> <p>(c) For purposes of the right to be present and heard at a public hearing as provided in Subsection 77-38-2(5)(g) and the right to notice as provided in Subsection 77-38-3(7)(a), “victim of a crime” includes any victim originally named in the allegation of criminal conduct who is not a victim of the offense to which the defendant entered a negotiated plea of guilty.</p> <p> These definitions apply to the Rights of Crime Victims Act, Utah Code Ann. §§ 77-38-1 to 77-38-15. Many of these statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Confidential Communications for Sexual Assault Act Definitions.</p> <p>As used in this part:</p> <p>(1) “Confidential communication” means information given to a sexual assault counselor by a victim and includes reports or working papers made in the course of the counseling</p>	<p>Utah Code Ann. § 77-38-203.</p>

<p>relationship.</p> <p>(2) “Rape crisis center” means any office, institution, or center assisting victims of sexual assault and their families which offers crisis intervention, medical, and legal services, and counseling.</p> <p>(3) “Sexual assault counselor” means a person who is employed by or volunteers at a rape crisis center who has a minimum of 40 hours of training in counseling and assisting victims of sexual assault and who is under the supervision of the director or designee of a rape crisis center.</p> <p>(4) “Victim” means a person who has experienced a sexual assault of whatever nature including incest and rape and requests counseling or assistance regarding the mental, physical, and emotional consequences of the sexual assault.</p> <p> These definitions apply to the Confidential Communications for Sexual Assault Act, Utah Code Ann. §§ 77-38-201 through 77-38-204. These statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Privileged Communications with Victim Advocates Act Definitions.</p> <p>As used in this part:</p> <p>(1) “Advocacy services” means assistance provided that supports, supplements, intervenes, or links a victim or a victim’s family with appropriate resources and services to address the wide range of potential impacts of being victimized.</p> <p>(2) “Advocacy services provider” means an entity that has the primary focus of providing advocacy services in general or with specialization to a specific crime type or specific type of victimization.</p> <p>(3) “Confidential communication” means a communication that is intended to be</p>	<p>Utah Code Ann. § 77-38-403.</p>

confidential between a victim and a victim advocate for the purpose of obtaining advocacy services.

(4) "Criminal justice system victim advocate" means an individual who:

(a) is employed or authorized to volunteer by a government agency that possesses a role or responsibility within the criminal justice system;

(b) has as a primary responsibility addressing the mental, physical, or emotional recovery of victims;

(c) completes a minimum 40 hours of trauma-informed training:

(i) in crisis response, the effects of crime and trauma on victims, victim advocacy services and ethics, informed consent, and this part regarding privileged confidential communication; and

(ii) that have been approved or provided by the Utah Office for Victims of Crime; and

(d) is under the supervision of the director or director's designee of the government agency.

(5) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Nongovernment organization victim advocate" means an individual who:

(a) is employed or authorized to volunteer by a nongovernment organization advocacy services provider;

(b) has as a primary responsibility addressing the mental, physical, or emotional recovery of victims;


(c) has a minimum 40 hours of trauma-informed training:


(i) in assisting victims specific to the specialization or focus of the nongovernment organization advocacy services provider and includes this part regarding privileged confidential communication; and

(ii)(A) that have been approved or provided by the Utah Office for Victims of Crime; or

(B) that meets other minimally equivalent standards set forth by the nongovernment organization advocacy services provider; and

(d) is under the supervision of the director or the director's designee of the nongovernment organization advocacy services provider.

<p>(8) “Record” means a book, letter, document, paper, map, plan, photograph, file, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics.</p> <p>(9) “Victim” means:</p> <ul style="list-style-type: none"> (a) a “victim of a crime” as defined in Section 77-38-2; (b) an individual who is a victim of domestic violence as defined in Section 77-36-1; or (c) an individual who is a victim of dating violence as defined in Section 78B-7-402. <p>(10) “Victim advocate” means:</p> <ul style="list-style-type: none"> (a) a criminal justice system victim advocate; (b) a nongovernment organization victim advocate; or (c) an individual who is employed or authorized to volunteer by a public or private entity and is designated by the Utah Office for Victims of Crime as having the specific purpose of providing advocacy services to or for the clients of the public or private entity. <p>(d) “Victim advocate” does not include an employee of the Utah Office for Victims of Crime.</p> <p> These definitions apply to the Privileged Communications with Victim Advocates Act, Utah Code Ann. §§ 77-38-401 through 77-38-405.</p>	
<p>Victims Guidelines for Prosecutors Act Definitions.</p> <p>As used in this part:</p> <p>(1) “Certifying entity” means any of the following:</p> <ul style="list-style-type: none"> (a) a law enforcement agency, as defined in Section 77-7a-103; (b) a prosecutor, as defined in Section 77-22-4.5; (c) a court, as defined in Section 78A-1-101; (d) any other authority that has responsibility for the detection, investigation, or prosecution of a qualifying crime or criminal activity; and 	<p>Utah Code Ann. § 77-38-502.</p>

<p>(e) an agency that has criminal detection or investigative jurisdiction in the agency's respective areas of expertise, including:</p> <ul style="list-style-type: none"> (i) the Division of Child and Family Services; and (ii) the Labor Commission. <p>(2) "Certifying official" means:</p> <ul style="list-style-type: none"> (a) the head of the certifying entity; (b) a person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency; (c) a judge; or (d) any other certifying official defined under 8 C.F.R. Sec. 214.14. <p>(3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.</p> <p>(4)(a) "Qualifying criminal activity" means the same as that term is defined in 8 C.F.R. Sec. 214.14.</p> <p>(b) "Qualifying criminal activity" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal activity described in Subsection (4)(a), and the attempt, conspiracy, or solicitation to commit any of those offenses.</p> <p> These definitions apply to the Victims Guidelines for Prosecutors Act, Utah Code Ann. §§ 77-38-501 through 77-38-503. Some of these statutory provisions are included below in the section "Select Crime Victims' Rights."</p>	
<p>Crime Victims Restitution Act Definitions.</p> <p>As used in this chapter:</p> <p>(1) "Conviction" includes a:</p> <ul style="list-style-type: none"> (a) judgment of guilt; 	<p>Utah Code Ann. § 77-38a-102.</p>

<p>(b) a plea of guilty; or (c) a plea of no contest.</p> <p>(2) “Criminal activities” means: (a) any misdemeanor or felony offense of which the defendant is convicted; or (b) any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.</p> <p>(3) “Department” means the Department of Corrections.</p> <p>(4) “Diversion” means suspending criminal proceedings prior to conviction on the condition that a defendant agree to participate in a rehabilitation program, make restitution to the victim, or fulfill some other condition.</p> <p>(5) “Party” means the prosecutor, defendant, or department involved in a prosecution.</p> <p>(6) “Pecuniary damages” means all demonstrable economic injury, whether or not yet incurred, including those which a person could recover in a civil action arising out of the facts or events constituting the defendant’s criminal activities and includes the fair market value of property taken, destroyed, broken, or otherwise harmed, and losses, including lost earnings, including those and other travel expenses reasonably incurred as a result of participation in criminal proceedings, and medical and other expenses, but excludes punitive or exemplary damages and pain and suffering.</p> <p>(7) “Plea agreement” means an agreement entered between the prosecution and defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.</p> <p>(8) “Plea disposition” means an agreement entered into between the prosecution and defendant including diversion, plea agreement, plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.</p>	
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(9) "Plea in abeyance" means an order by a court, upon motion of the prosecution and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against him nor imposing sentence upon him on condition that he comply with specific conditions as set forth in a plea in abeyance agreement.

(10) "Plea in abeyance agreement" means an agreement entered into between the prosecution and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

(11) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, including prejudgment interest, the accrual of interest from the time of sentencing, insured damages, reimbursement for payment of a reward, and payment for expenses to a governmental entity for extradition or transportation and as may be further defined by law.

(12)(a) "Reward" means a sum of money:

(i) offered to the public for information leading to the arrest and conviction of an offender; and

(ii) that has been paid to a person or persons who provide this information, except that the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.

(b) "Reward" does not include any amount paid in excess of the sum offered to the public.

(13) "Screening" means the process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted.


(14)(a) "Victim" means any person or entity, including the Utah Office for Victims of Crime, who the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.



(b) "Victim" may not include a codefendant or accomplice.



These definitions apply to the Crime Victims Restitution Act, Utah Code Ann. §§ 77-38a-101 through 77-38a-601. Some of these statutory provisions are included below in the section "Select Crime Victims' Rights."

<p>Confidential Communications for Institutional Advocacy Services Act Definitions.</p> <p>As used in this part:</p> <p>(1) “Certified advocate” means an individual who:</p> <ul style="list-style-type: none"> (a) is employed by or volunteers at a qualified institutional victim services provider; (b) has completed at least 40 hours of training in counseling and assisting victims of sexual harassment, sexual assault, rape, dating violence, domestic violence, or stalking; and (c) acts under the supervision of the director or director’s designee of a qualified institutional victim services provider. <p>(2)(a) “Confidential communication” means information that is communicated by a victim, in the course of the victim seeking an institutional advocacy service, to:</p> <ul style="list-style-type: none"> (i) a certified advocate; (ii) a qualified institutional victim services provider; (iii) a person reasonably necessary for the transmission of the information; (iv) an individual who is present at the time the information is transmitted for the purpose of furthering the victim’s interests; or (v) another individual, in the context of group counseling at a qualified institutional victim services provider. <p>(b) “Confidential communication” includes a record that is created or maintained as a result of the communication described in Subsection (2)(a).</p> <p>(3) “Institutional advocacy service” means a safety planning, counseling, psychological, support, advocacy, medical, or legal service that:</p> <ul style="list-style-type: none"> (a) addresses issues involving: <ul style="list-style-type: none"> (i) sexual harassment; (ii) sexual assault; (iii) rape; (iv) domestic violence; (v) dating violence; or (vi) stalking; and 	<p>Utah Code Ann. § 53B-28-201.</p>
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<p>(b) is provided by a qualified institutional victim services provider.</p> <p>(4)(a) “Qualified institutional victim services provider” means an organization that:</p> <ul style="list-style-type: none"> (i) is affiliated with an institution; (ii) employs or provides volunteer opportunities for certified advocates; (iii) provides an institutional advocacy service to victims or families of victims; and (iv) is designated by the affiliated institution as a qualified institutional victim services provider. <p>(b) “Qualified institutional victim services provider” may include an institution’s:</p> <ul style="list-style-type: none"> (i) sexual assault center; (ii) victim advocacy center; (iii) women’s center; (iv) health center; or (v) counseling service center. <p>(5) “Record” means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics.</p> <p>(6) “Victim” means an individual who seeks an institutional advocacy service.</p> <p> These definitions apply to the Confidential Communications for Institutional Advocacy Services Act, Utah Code Ann. §§ 53B-28-201 through 53B-28-202. Utah Code Ann. § 53B-28-202 is included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Victims’ Right to Notification of an Offender’s Release or Escape.</p> <p>As used in this section:</p> <p>(a) “Offender” means a person who committed an act of criminally injurious conduct against the victim and has been sentenced to incarceration in the custody of the department.</p>	<p>Utah Code Ann. § 64-13-14.7(1).</p>

<p>(b) “Victim” means a person against whom an offender committed criminally injurious conduct as defined in Section 63M-7-502, and who is entitled to notice of hearings regarding the offender’s parole under Section 77-27-9.5. “Victim” includes the legal guardian of a victim, or the representative of the family of a victim who is deceased.</p> <p> These definitions apply to the statutory provision governing a victim’s right to notification of an offender’s release or escape, Utah Code Ann. § 64-13-14.7. This statutory provision is included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Sexual Assault Kit Processing Act Definitions.</p> <p>For purposes of this part:</p> <p>(1) “Collecting facility” means a hospital, health care facility, or other facility that performs sexual assault examinations</p> <p>(2) “Department” means the Department of Public Safety.</p> <p>(3) “Restricted kit” means a sexual assault kit:</p> <p>(a) that is collected by a collecting facility; and</p> <p>(b) for which a victim who is 18 years of age or older at the time of the sexual assault kit evidence collection declines:</p> <p>(i) to have his or her sexual assault kit processed; and</p> <p>(ii) to have the sexual assault examination form shared with any entity outside of the collection facility.</p> <p>(4) “Sexual assault kit” means a package of items that is used by medical personnel to gather and preserve biological and physical evidence following an allegation of sexual assault.</p> <p> These definitions apply to the Sexual Assault Processing Kit Act, Utah Code Ann. §§ 76-5-601 through 76-5-610. Some of these statutory provisions are included below in</p>	<p>Utah Code Ann. § 76-5-602.</p>

the section "Select Crime Victims' Rights."	
<p>Cohabitant Abuse Procedures Act Definitions.</p> <p>As used in this chapter:</p> <p>(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.</p> <p>(2) "Department" means the Department of Public Safety.</p> <p>(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.</p> <p>(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" includes commission or attempt to commit, any of the following offenses by one cohabitant against another:</p> <p>(a) aggravated assault, as described in Section 76-5-103;</p> <p>(b) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;</p> <p>(c) assault, as described in Section 76-5-102;</p> <p>(d) criminal homicide, as described in Section 76-5-201;</p> <p>(e) harassment, as described in Section 76-5-106;</p> <p>(f) electronic communication harassment, as described in Section 76-9-201;</p> <p>(g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;</p> <p>(h) mayhem, as described in Section 76-5-105;</p> <p>(i) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual exploitation of a minor--Offenses;</p>	Utah Code Ann. § 77-36-1.

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| <p>(j) stalking, as described in Section 76-5-106.5;</p> <p>(k) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;</p> <p>(l) violation of a protective order or ex parte protective order, as described in Section 76-5-108;</p> <p>(m) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;</p> <p>(n) possession of a deadly weapon with criminal intent, as described in Section 76-10-507;</p> <p>(o) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;</p> <p>(p) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;</p> <p>(q) child abuse, as described in Section 76-5-109.1;</p> <p>(r) threatening use of a dangerous weapon, as described in Section 76-10-506;</p> <p>(s) threatening violence, as described in Section 76-5-107;</p> <p>(t) tampering with a witness, as described in Section 76-8-508;</p> <p>(u) retaliation against a witness or victim, as described in Section 76-8-508.3;</p> <p>(v) unlawful distribution of an intimate image, as described in Section 76-5b-203;</p> <p>(w) sexual battery, as described in Section 76-9-702.1;</p> <p>(x) voyeurism, as described in Section 76-9-702.7;</p> <p>(y) damage to or interruption of a communication device, as described in Section 76-6-108;</p> <p>or</p> <p>(z) an offense described in Section 77-20-3.5.</p> <p>(5) "Jail release agreement" means the same as that term is defined in Section 77-20-3.5.</p> <p>(6) "Jail release court order" means the same as that term is defined in Section 77-20-3.5.</p> | |
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(7) “Marital status” means married and living together, divorced, separated, or not married.

(8) “Married and living together” means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) “Not married” means any living arrangement other than married and living together, divorced, or separated.

(10) “Protective order” includes an order issued under Subsection 77-36-5.1(6).

(11) “Pretrial protective order” means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release pursuant to Section 77-20-3.5, Subsection 77-36-2.6 (3), or Section 77-36-2.7, pending trial in the criminal case.

(12) “Sentencing protective order” means a written order of the court as part of sentencing in a domestic violence case that limits the contact a person who has been convicted of a domestic violence offense may have with a victim or other specified individuals pursuant to Sections 77-36-5 and 77-36-5.1.


(13) “Separated” means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.


(14) “Victim” means a cohabitant who has been subjected to domestic violence.








These definitions apply to the Cohabitant Abuse Procedures Act, Utah Code Ann. §§ 77-36-1 through 77-36-10. Utah Code § 77-36-2.1, which governs the duties of law enforcement officers regarding victim notice, is included below in the section “Select Crime Victims’ Rights.”

<p>Dating Violence Protection Act Definitions.</p> <p>As used in this part:</p> <p>(1) “Abuse” means intentionally or knowingly:</p> <ul style="list-style-type: none"> (a) causing or attempting to cause physical harm to a dating partner; or (b) placing a dating partner in reasonable fear of imminent physical harm. <p>(2)(a) “Dating partner” means a person who:</p> <ul style="list-style-type: none"> (i)(A) is an emancipated person under Section 15-2-1 or Title 78A, Chapter 6, Part 8, Emancipation; or (B) is 18 years of age or older; and (ii) is, or has been, in a dating relationship with the other party. <p>(b) “Dating partner” does not include an intimate partner, as defined in federal law in Title 18 U.S.C. Section 921.</p> <p>(3)(a) “Dating relationship” means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.</p> <p>(b) “Dating relationship” does not mean casual fraternization in a business, educational, or social context.</p> <p>(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:</p> <ul style="list-style-type: none"> (i) all relevant factors shall be considered, including: <ul style="list-style-type: none"> (A) whether the parties developed interpersonal bonding above a mere casual fraternization; (B) the length of the parties’ relationship; (C) the nature and the frequency of the parties’ interactions, including communications indicating that the parties intended to begin a dating relationship; (D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship; (E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and 	<p>Utah Code Ann. § 78B-7-402.</p>
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<p>(F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and</p> <p>(ii) it is not necessary that all, or a particular number, of the factors described in Subsection (3)(c)(i) are found to support the existence of a dating relationship.</p> <p>(4) “Dating violence” means:</p> <p>(a) any criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by a person against a dating partner of the person; or</p> <p>(b) any attempt, conspiracy, or solicitation by a person to commit a criminal offense involving violence or physical harm against a dating partner of the person.</p> <p>(5) “Dating violence protective order” means an order issued pursuant to this part subsequent to a hearing on the petition, as described in Section 78B-7-403.</p> <p>(6) “Ex parte dating violence protective order” means an order issued without notice to the respondent, in accordance with the requirements of this part.</p> <p>(7) “Protective order” means:</p> <p>(a) a dating violence protective order; or</p> <p>(b) an ex parte dating violence protective order.</p> <p> These definitions apply to the Dating Violence Protection Act, Utah Code Ann. §§ 78B-7-401 through 78B-7-409. Utah Code § 78B-7-408, which governs the duties of law enforcement officers regarding victim notice, is included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Sexual Violence Protection Act Definitions.</p> <p>As used in this part:</p> <p>(1) “Cohabitant” means the same as that term is defined in Section 78B-7-102.</p>	<p>Utah Code Ann. § 78B-7-502.</p>

<p>(2) "Dating partner" means the same as that term is defined in Section 78B-7-402.</p> <p>(3) "Ex parte sexual violence protective order" means an order issued without notice to the respondent in accordance with the requirements of this part.</p> <p>(4) "Protective order" means:</p> <ul style="list-style-type: none"> (a) a sexual violence protective order; or (b) an ex parte sexual violence protective order. <p>(5) "Sexual violence" means the commission or the attempt to commit:</p> <ul style="list-style-type: none"> (a) any sexual offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Part 2, Sexual Exploitation; (b) human trafficking for forced sexual exploitation under Section 76-5-308; or (c) aggravated human trafficking for forced sexual exploitation under Section 76-5-310. <p>(6) "Sexual violence protective order" means an order issued after notice and a hearing in accordance with the requirements of this part.</p> <p> These definitions apply to the Sexual Violence Protection Act, Utah Code Ann. §§ 78B-7-501 through 78B-7-509. Utah Code Ann. § 78B-7-509, which governs the duties of law enforcement officers regarding victim notice, is included below in the section "Select Crime Victims' Rights."</p>	
<p>Victim Advocate-Victim Privilege Definitions.</p> <p>(1) "Advocacy services" means the same as that term is defined in UCA § 77-38-403.</p> <p>(2) "Confidential communication" means a communication that is intended to be confidential between a victim and a victim advocate for the purpose of obtaining advocacy services as defined in UCA § 77-38-403.</p> <p>(3) "Criminal justice system victim advocate" means the same as that term is defined in UCA</p>	<p>Utah R. Evid. 512(a).</p>

<p>§ 77-38-403.</p> <p>(4) “Health care provider” means the same as that term is defined in UCA § 78B-3-403.</p> <p>(5) “Mental health therapist” means the same as that term is defined in UCA § 58-60-102.</p> <p>(6) “Victim” means an individual defined as a victim in UCA § 77-38-403.</p> <p>(7) “Victim advocate” means the same as that term is defined in UCA § 77-38-403.</p> <p> These definitions apply to the victim advocate-victim privilege, Utah R. Evid. 512. The text of this privilege is included below in the section “Select Crime Victims’ Rights.”</p> <p> These definitions rely upon the definitions set forth in the Privileged Communications with Victim Advocates Act Definitions, Utah Code Ann. § 77-38-403. These definitions are included above in this section.</p>	
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SELECT CRIME VICTIMS' RIGHTS	Utah Constitutional Provisions, Statutes and Rules
<p>Constitutional Declaration of the Rights of Crime Victims; Right to be Treated with Fairness, Respect and Dignity and to be Free from Harassment and Abuse Throughout the Criminal Justice Process.</p> <p>To preserve and protect victims' rights to justice and due process, victims of crimes have these rights, as defined by law:</p> <p>(a) To be treated with fairness, respect, and dignity, and to be free from harassment and abuse throughout the criminal justice process[.]</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this constitutional amendment. These definitions are included above in the section "Select Definitions."</p> <p> The Utah state constitutional rights are "extend[ed] to all felony crimes and such other crimes or acts, including juvenile offenses, as the Legislature may provide." Utah Const. art. 1, § 28(3).</p> <p> Utah extends some of these same rights to victims in various statutory provisions of its victims' rights laws. These statutory provisions are included below.</p>	<p>Utah Const. art. 1, § 28(1)(a).</p>
<p>Constitutional Declaration of the Rights of Crime Victims; Upon Request, Right to be Informed of, and Present and Heard at, Important Criminal Justice Hearings.</p> <p>To preserve and protect victims' rights to justice and due process, victims of crimes have these rights, as defined by law:</p>	<p>Utah Const. art. 1, § 28(1)(b).</p>

...

(b) Upon request, to be informed of, be present at, and to be heard at important criminal justice hearings related to the victim, either in person or through a lawful representative, once a criminal information or indictment charging a crime has been publicly filed in court[.]



Utah Code Ann. § 77-38-2 defines the terms used in this constitutional amendment. These definitions are included above in the section “Select Definitions.”



The Utah state constitutional rights are “extend[ed] to all felony crimes and such other crimes or acts, including juvenile offenses, as the Legislature may provide.” Utah Const. art. 1, § 28(3).








Utah extends some of these same rights to victims in various statutory provisions of its victims’ rights laws. These statutory provisions are included below.








Victims’ constitutional right to be present at important criminal justice proceedings, which includes trial, should provide for the victims’ presence during the entirety of the trial.










A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction’s law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.






 A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.	
<p>Constitutional Declaration of the Rights of Crime Victims; Right to Have Judge Receive and Consider Information for Sentencing Purposes.</p> <p>To preserve and protect victims’ rights to justice and due process, victims of crimes have these rights, as defined by law:</p> <p>...</p> <p>(c) To have a sentencing judge, for the purpose of imposing an appropriate sentence, receive and consider, without evidentiary limitation, reliable information concerning the background, character, and conduct of a person convicted of an offense except that this subsection does not apply to capital cases or situations involving privileges.</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this constitutional amendment. These definitions are included above in the section “Select Definitions.”</p> <p> The Utah state constitutional rights are “extend[ed] to all felony crimes and such other crimes or acts, including juvenile offenses, as the Legislature may provide.” Utah Const. art. 1, § 28(3).</p> <p> Utah extends some of these same rights to victims in various statutory provisions of its victims’ rights laws. These statutory provisions are included below.</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your</p>	<p>Utah Const. art. 1, § 28(1)(c).</p>





<p>jurisdiction's law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p>	
<p>Constitutional Declaration of the Rights of Crime Victims; No Cause of Action for Money Damages or Attorney's Fees; No Basis for Dismissing Charge or Relief from Judgment.</p> <p>(2) Nothing in this section shall be construed as creating a cause of action for money damages, costs, or attorney's fees, or for dismissing any criminal charge, or relief from any criminal judgment.</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this constitutional amendment. These definitions are included above in the section "Select Definitions."</p> <p> The Utah state constitutional rights are "extend[ed] to all felony crimes and such other crimes or acts, including juvenile offenses, as the Legislature may provide." Utah Const. art. 1, § 28(3).</p> <p> Utah extends some of these same rights to victims in various statutory provisions of its victims' rights laws. These statutory provisions are included below.</p>	<p>Utah Const. art. 1, § 28(2).</p>
<p>Crime Victims' Bill of Rights: Legislative Intent.</p> <p>(1) The Legislature recognizes the duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, the essential nature of citizen cooperation to state and local law enforcement efforts, and the general</p>	<p>Utah Code Ann. § 77-37-1.</p>

<p>effectiveness and well-being of the criminal justice system of this state. In this chapter, the Legislature declares its intent to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity, and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law in a manner no less vigorous than protections afforded criminal defendants.</p> <p>(2) The Legislature finds it is necessary to provide child victims and child witnesses with additional consideration and different treatment than that usually afforded to adults. The treatment should ensure that children's participation in the criminal justice process be conducted in the most effective and least traumatic, intrusive, or intimidating manner.</p>	
<p>Victims' Right to Be Informed of Availability of Protection; Law Enforcement's Obligations to Provide this Information.</p> <p>Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding witness tampering, and Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have a policy and procedure in place determining who is responsible for providing victims notice of their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing written notice at or promptly after the victims' initial contact with law enforcement. The notice should be provided in the primary language of the victim when possible, as well as in a form accessible to those with vision impairment.</p>	<p>Utah Code Ann. § 77-37-3(1)(a).</p>

<p>Victims' Right to Be Informed of and Assisted with Their Role in the Criminal Justice Process.</p> <p>Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have a policy and procedure in place determining who is responsible for providing victims notice of their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing written notice at or promptly after the victims' initial contact with law enforcement. The notice should be provided in the primary language of the victim when possible, as well as in a form accessible to those with vision impairment.</p>	<p>Utah Code Ann. § 77-37-3(1)(b).</p>
<p>Victims' Right to Clear Explanations of Proceedings.</p> <p>Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have a policy and procedure in place regarding how to provide victims with clear, age-appropriate explanations of relevant proceedings.</p>	<p>Utah Code Ann. § 77-37-3(1)(c).</p>

<p>Victims' Right to a Secure Waiting Area.</p> <p>Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Utah Code Ann. § 77-37-3(1)(d).</p>
<p>Victims' Right to Restitution or Reparations.</p> <p>Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, and Sections 62A-7-109.5, 77-38a-302, and 77-27-6. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant's criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	<p>Utah Code Ann. § 77-37-3(1)(e).</p>
<p>Victims' Right to Expeditious Return of Property.</p> <p>Victims and witnesses have a right to have any personal property returned as provided in</p>	<p>Utah Code Ann. § 77-37-3(1)(f).</p>

<p>Sections 77-24a-1 through 77-24a-5. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place that clearly defines what “expeditiously” means in the context of the victim’s right to return of property. Instructions should be ready and available to provide to victims, explaining how they may promptly obtain their property, and including the name of a person they may contact to check the status of the return.</p>	
<p>Victims’ Right to Employer Intercession Services.</p> <p>Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees’ loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider victims’ and witnesses’ schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, of their employment-related rights.</p> <p> A promising practice is to have a policy and procedure in place to provide employers with this information.</p>	<p>Utah Code Ann. § 77-37-3(1)(g).</p>

<p>Victims' Right to Speedy Disposition.</p> <p>Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> Utah Code Ann. § 77-38-7 provides victims with the right to a speedy disposition and places obligations on the court regarding the protection of this right.</p>	<p>Utah Code Ann. § 77-37-3(1)(h).</p>
<p>Victims' Right to Notice of Proceedings and Schedule Changes.</p> <p>Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have a policy and procedure in place to establish what constitutes "timely notice."</p>	<p>Utah Code Ann. § 77-37-3(1)(i).</p>
<p>Sex Offense Victims' Rights Regarding HIV and DNA Testing.</p> <p>Victims of sexual offenses have the following rights:</p>	<p>Utah Code Ann. § 77-37-3(1)(j).</p>

(i) the right to request voluntary testing for themselves for HIV infection as provided in Section 76-5-503 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section 76-5-502;

(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;

(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;

(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and



(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (1)(j) and under Subsections (2) and (3).







Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."



It is a promising practice to have a policy and procedure in place to ensure that victims are aware, at the outset, that they must request the exercise of this right because "[s]ubsections (1)(j)(ii) through (iv) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee." Utah Code Ann. § 77-37-3(1)(k).

<p>Law Enforcement's Authority to Release Certain Information Regarding a Sex Offense and to Use Various Communication Methods to Respond to Victims' Requests.</p> <p>The law enforcement agency investigating a sexual offense may:</p> <ul style="list-style-type: none"> (a) release the information indicated in [Utah Code Ann. § 77-37-3(1)(j)(ii) through (iv)] upon the request of a victim or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee; (b) require that the victim's request be in writing; and (c) respond to the victim's request with verbal communication, written communication, or by email, if an email address is available. <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights.</p>	<p>Utah Code Ann. § 77-37-3(2).</p>
<p>Law Enforcement's Authority and Responsibilities Regarding Sex Offense Investigations; Victims' Right to Notice.</p> <p>The law enforcement agency investigating a sexual offense has the following authority and responsibilities:</p> <ul style="list-style-type: none"> (a) If the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not been confirmed, the law enforcement agency shall notify the victim or the victim's designee. 	<p>Utah Code Ann. § 77-37-3(3).</p>

<p>(b)(i) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the law enforcement agency shall provide written notification of that intention and information on how to appeal the decision to the victim or the victim's designee of that intention.</p> <p>(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.</p> <p>(c) A law enforcement agency responsible for providing information under [Utah Code Ann. § 77-37-3(2)(1)(j)(ii) through (iv), (2), and (3)] shall do so in a timely manner and, upon request of the victim or the victim's designee, shall advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.</p> <p>(d) The law enforcement agency investigating the sexual offense is responsible for informing the victim or the victim's designee of the rights established under [Utah Code Ann. § 77-37-3(1)(j)(ii) through (iv) and (2), and this Subsection (3).</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights.</p>	
<p>Victims' Obligation to Keep Contact Information Current.</p> <p>Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.</p>	<p>Utah Code Ann. § 77-37-3(4).</p>

<p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims are informed, upon first contact, of their obligation to keep their contact information current and to provide victims with information regarding how to do so.</p>	
<p>Child-Victims’ Rights.</p> <p>In addition to all rights afforded to victims and witnesses under this chapter, child victims and witnesses shall be afforded these rights:</p> <p>(1) Children have the right to protection from physical and emotional abuse during their involvement with the criminal justice process.</p> <p>(2) Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility. Those who interview children have the responsibility to consider the interests of the child in this regard.</p> <p>(3) Child victims and witnesses have the right to have interviews relating to a criminal prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are conducted by persons sensitive to the needs of children.</p> <p>(4) Child victims have the right to be informed of available community resources that might assist them and how to gain access to those resources. Law enforcement and prosecutors have the duty to ensure that child victims are informed of community resources, including counseling prior to the court proceeding, and have those services available throughout the criminal justice process.</p> <p>(5)(a) Child victims have the right, once an investigation has been initiated by law</p>	<p>Utah Code Ann. § 77-37-4.</p>

<p>enforcement or the Division of Child and Family Services, to keep confidential their interviews that are conducted at a Children's Justice Center, including video and audio recordings, and transcripts of those recordings. Except as provided in Subsection (6), recordings and transcripts of interviews may not be distributed, released, or displayed to anyone without a court order.</p> <p>(b) A court order described in Subsection (5)(a):</p> <p>(i) shall describe with particularity to whom the recording or transcript of the interview may be released and prohibit further distribution or viewing by anyone not named in the order; and</p> <p>(ii) may impose restrictions on access to the materials considered reasonable to protect the privacy of the child victim.</p> <p>(c) A parent or guardian of the child victim may petition a juvenile or district court for an order allowing the parent or guardian to view a recording or transcript upon a finding of good cause. The order shall designate the agency that is required to display the recording or transcript to the parent or guardian and shall prohibit viewing by anyone not named in the order.</p> <p>(d) Following the conclusion of any legal proceedings in which the recordings or transcripts are used, the court shall order the recordings and transcripts in the court's file sealed and preserved.</p> <p>(6)(a) The following offices and their designated employees may distribute and receive a recording or transcript to and from one another without a court order:</p> <p>(i) the Division of Child and Family Services;</p> <p>(ii) administrative law judges employed by the Department of Human Services;</p> <p>(iii) Department of Human Services investigators investigating the Division of Child and Family Services or investigators authorized to investigate under Section 62A-4a-202.6;</p> <p>(iv) an office of the city attorney, county attorney, district attorney, or attorney general;</p> <p>(v) a law enforcement agency;</p> <p>(vi) a Children's Justice Center established under Section 67-5b-102; or</p> <p>(vii) the attorney for the child who is the subject of the interview.</p> <p>(b) In a criminal case or in a juvenile court in which the state is a party:</p> <p>(i) the parties may display and enter into evidence a recording or transcript in the course of a prosecution;</p>	
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<p>(ii) the state's attorney may distribute a recording or transcript to the attorney for the defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for discovery;</p> <p>(iii) the attorney for the defendant or respondent may do one or both of the following:</p> <p>(A) release the recording or transcript to an expert retained by the attorney for the defendant or respondent if the expert agrees in writing that the expert will not distribute, release, or display the recording or transcript to anyone without prior authorization from the court; or</p> <p>(B) permit the defendant or respondent to view the recording or transcript, but may not distribute or release the recording or transcript to the defendant or respondent; and</p> <p>(iv) the court shall advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be distributed, released, or displayed without prior authorization from the court.</p> <p>(c) A court's failure to advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be used as a defense to prosecution for a violation of the disclosure rule.</p> <p>(d) In an administrative case, pursuant to a written request, the Division of Child and Family Services may display, but may not distribute or release, a recording or transcript to the respondent or to the respondent's designated representative.</p> <p>(e)(i) Within two business days of a request from a parent or guardian of a child victim, an investigative agency shall allow the parent or guardian to view a recording after the conclusion of an interview, unless:</p> <p>(A) the suspect is a parent or guardian of the child victim;</p> <p>(B) the suspect resides in the home with the child victim; or</p> <p>(C) the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation.</p> <p>(ii) If the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation, the parent or guardian may petition a juvenile or district court for an expedited hearing on whether there is good cause for the court to enter an order allowing the parent or guardian to view the recording in accordance with Subsection (5)(c).</p> <p>(iii) A Children's Justice Center shall coordinate the viewing of the recording described in this Subsection (6)(e).</p> <p>(f) A multidisciplinary team assembled by a Children's Justice Center or an interdisciplinary</p>	
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team assembled by the Division of Child and Family Services may view a recording or transcript, but may not receive a recording or transcript.

(g) A Children's Justice Center:

(i) may distribute or display a recording or transcript to an authorized trainer or evaluator for purposes of training or evaluation; and

(ii) may display, but may not distribute, a recording or transcript to an authorized trainee.

(h) An authorized trainer or instructor may display a recording or transcript according to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center or according to the authorized trainer's or instructor's scope of employment.

(i)(i) In an investigation under Section 53E-6-506, in which a child victim who is the subject of the recording or transcript has alleged criminal conduct against an educator, a law enforcement agency may distribute or release the recording or transcript to an investigator operating under State Board of Education authorization, upon the investigator's written request.

(ii) If the respondent in a case investigated under Section 53E-6-506 requests a hearing authorized under that section, the investigator operating under State Board of Education authorization may display, release, or distribute the recording or transcript to the prosecutor operating under State Board of Education authorization or to an expert retained by an investigator.

(iii) Upon request for a hearing under Section 53E-6-506, a prosecutor operating under State Board of Education authorization may display the recording or transcript to a pro se respondent, to an attorney retained by the respondent, or to an expert retained by the respondent.


(iv) The parties to a hearing authorized under Section 53E-6-506 may display and enter into evidence a recording or transcript in the course of a prosecution.

(7) Except as otherwise provided in this section, it is a class B misdemeanor for any individual to distribute, release, or display any recording or transcript of an interview of a child victim conducted at a Children's Justice Center.



Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."

<p>Remedies; District Victims' Rights Committee.</p> <p>(1) In each judicial district, the Utah Council on Victims of Crime, established in Section 63M-7-601, shall appoint a person who shall chair a judicial district victims' rights committee consisting of:</p> <ul style="list-style-type: none"> (a) a county attorney or district attorney; (b) a sheriff; (c) a corrections field services administrator; (d) an appointed victim advocate; (e) a municipal attorney; (f) a municipal chief of police; and (g) other representatives as appropriate. <p>(2) The committee shall meet at least semiannually to review progress and problems related to this chapter, Title 77, Chapter 38, Rights of Crime Victims Act, Title 77, Chapter 38a, Crime Victims Restitution Act, and Utah Constitution Article I, Section 28. Victims and other interested parties may submit matters of concern to the victims' rights committee. The committee may hold a hearing open to the public on any appropriate matter of concern and may publish its findings. These matters shall also be considered at the meetings of the victims' rights committee. The committee shall forward minutes of all meetings to the Utah Council on Victims of Crime for review and other appropriate action.</p> <p>(3) If a victims' rights committee is unable to resolve a complaint, it may refer the complaint to the Utah Council on Victims of Crime.</p> <p>(4) The Utah Office for Victims of Crime shall provide materials to local law enforcement to inform every victim of a sexual offense of the right to request testing of the convicted sexual offender and of the victim as provided in Section 76-5-502.</p> <p>(5)(a) If a person acting under color of state law willfully or wantonly fails to perform duties so that the rights in this chapter are not provided, an action for injunctive relief may be brought against the individual and the government entity that employs the individual.</p>	<p>Utah Code Ann. § 77-37-5.</p>
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<p>(b) For all other violations, if the committee finds a violation of a victim's right, it shall refer the matter to the appropriate court for further proceedings consistent with Subsection 77-38-11(2).</p> <p>(c) The failure to provide the rights in this chapter or Title 77, Chapter 38, Rights of Crime Victims Act, does not constitute cause for a judgment against the state or any government entity, or any individual employed by the state or any government entity, for monetary damages, attorney fees, or the costs of exercising any rights under this chapter.</p> <p>(6) The person accused of and subject to prosecution for the crime or the act which would be a crime if committed by a competent adult, has no standing to make a claim concerning any violation of the provisions of this chapter.</p> <p> Utah Code Ann. § 77-37-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	
<p>Victims' Right to Notification; Law Enforcement's Obligation to Refer Requests for Notice or Information to the Prosecuting Agency; Protected Victim Information; Pretrial No Contact Order.</p> <p>(1) Within seven days of the filing of felony criminal charges against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.</p> <p>(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (f) and rights under this chapter.</p> <p>(3) The prosecuting agency shall provide notice to a victim of a crime:</p> <p>(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (f), which the victim has requested; and</p> <p>(b) for restitution requests to be submitted as provided in Subsection 77-38a-302(5)(d).</p>	<p>Utah Code Ann. § 77-38-3.</p>

(4)(a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, listed in Subsections 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5)(a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for victims of crimes to be notified.

(b) The court shall also consider whether any notification system it might use to provide notice of judicial proceedings to defendants could be used to provide notice of those same proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so that the prosecuting agency may comply with its notification obligation.

(7)(a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing provided in Subsection 77-38-2(5)(g).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (f) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9)(a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice it has received from a victim to the Board of Pardons and Parole.

(10) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in its discretion to a representative sample of the victims.

(11)(a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice Services, Department of Corrections, and Board of Pardons and Parole, for purposes of providing notice under this section, is classified as protected as provided in Subsection 63G-2-305(10).




(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

- (i) a law enforcement agency, including the prosecuting agency;
- (ii) a victims' right committee as provided in Section 77-37-5;
- (iii) a governmentally sponsored victim or witness program;
- (iv) the Department of Corrections;
- (v) the Utah Office for Victims of Crime;
- (vi) the Commission on Criminal and Juvenile Justice; and
- (vii) the Board of Pardons and Parole.

(12) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(13)(a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413 regarding sexual offenses; or Section 76-10-1306 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

- (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise

<p>communicating with the victim directly or through a third party; (ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and (iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim. (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony. (c)(i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort. (ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> This right to notice focuses on the various “important criminal justice hearings” listed in Utah Code Ann. § 77-38-2(5), part of the definitions section of the Rights of Crime Victims Act, which is included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights. Victims should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Victims’ Rights to Be Present, to Be Heard and to File an Amicus Brief on Appeal.</p> <p>(1) The victim of a crime, the representative of the victim, or both shall have the right: (a) to be present at the important criminal or juvenile justice hearings provided in Subsection</p>	<p>Utah Code Ann. § 77-38-4.</p>

<p>77-38-2(5);</p> <p>(b) to be heard at the important criminal or juvenile justice hearings provided in Subsections 77-38-2(5)(b), (c), (d), (f), and (g);</p> <p>(c) to submit a written statement in any action on appeal related to that crime; and</p> <p>(d) upon request to the judge hearing the matter, to be present and heard at the initial appearance of the person suspected of committing the conduct or criminal offense against the victim on issues relating to whether to release a defendant or minor and, if so, under what conditions release may occur.</p> <p>(2) This chapter shall not confer any right to the victim of a crime to be heard:</p> <p>(a) at any criminal trial, including the sentencing phase of a capital trial under Section 76-3-207 or at any preliminary hearing, unless called as a witness; and</p> <p>(b) at any delinquency trial or at any preliminary hearing in a minor's case, unless called as a witness.</p> <p>(3) The right of a victim or representative of a victim to be present at trial is subject to Rule 615 of the Utah Rules of Evidence.</p> <p>(4) Nothing in this chapter shall deprive the court of the right to prevent or punish disruptive conduct nor give the victim of a crime the right to engage in disruptive conduct.</p> <p>(5) The court shall have the right to limit any victim's statement to matters that are relevant to the proceeding.</p> <p>(6) In all cases where the number of victims exceeds five, the court may limit the in-court oral statements it receives from victims in its discretion to a few representative statements.</p> <p>(7) Except as otherwise provided in this section, a victim's right to be heard may be exercised at the victim's discretion in any appropriate fashion, including an oral, written, audiotaped, or videotaped statement or direct or indirect information that has been provided to be included in any presentence report.</p> <p>(8) If the victim of a crime is a person who is in custody as a pretrial detainee, as a prisoner</p>	
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following conviction for an offense, or as a juvenile who has committed an act that would be an offense if committed by an adult, or who is in custody for mental or psychological treatment, the right to be heard under this chapter shall be exercised by submitting a written statement to the court.

(9) The court may exclude any oral statement from a victim on the grounds of the victim's incompetency as provided in Rule 601(a) of Utah Rules of Evidence.

(10) Except in juvenile court cases, the Constitution may not be construed as limiting the existing rights of the prosecution to introduce evidence in support of a capital sentence.




Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."







Victims' constitutional right to be present at important criminal justice proceedings, which includes trial, should provide for the victims' presence during the entirety of the trial. Under Utah Rule of Evidence 615, "[a]t a party's request, the court must order witnesses excluded so that they cannot hear other witnesses' testimony. Or the court may do so on its own. But this rule does not authorize excluding . . . (d) a victim in a criminal or juvenile delinquency proceeding where the prosecutor agrees with the victim's presence; [or] (e) a victim counselor while the victim is present unless the defendant establishes that the counselor is a material witness in that criminal or juvenile delinquency proceeding." Utah R. Evid. 615(d)–(e).





A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction's law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.

<p>The Rights of Crime Victims Act Applies to Felonies, Misdemeanors and Certain Juvenile Court Cases.</p> <p>The provisions of this chapter shall apply to:</p> <ul style="list-style-type: none"> (1) any felony filed in the courts of the state; (2) to any class A and class B misdemeanor filed in the courts of the state; and (3) to cases in the juvenile court as provided in Section 78A-6-114. 	<p>Utah Code Ann. § 77-38-5.</p>
<p>Victims' Right to Privacy of Locating Information.</p> <p>The victim of a crime has the right, at any court proceeding, including any juvenile court proceeding, not to testify regarding the victim's address, telephone number, place of employment, or other locating information unless the victim specifically consents or the court orders disclosure on finding that a compelling need exists to disclose the information. A court proceeding on whether to order disclosure shall be in camera.</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Utah Code Ann. § 77-38-6(1).</p>
<p>Victims' Right to a Speedy Disposition.</p> <ul style="list-style-type: none"> (1) In determining a date for any criminal trial or other important criminal or juvenile justice hearing, the court shall consider the interests of the victim of a crime to a speedy resolution of the charges under the same standards that govern a defendant's or minor's right to a speedy trial. (2) The victim of a crime has the right to a speedy disposition of the charges free from 	<p>Utah Code Ann. § 77-38-7.</p>

<p>unwarranted delay caused by or at the behest of the defendant or minor and to prompt and final conclusion of the case after the disposition or conviction and sentence, including prompt and final conclusion of all collateral attacks on dispositions or criminal judgments.</p> <p>(3)(a) In ruling on any motion by a defendant or minor to continue a previously established trial or other important criminal or juvenile justice hearing, the court shall inquire into the circumstances requiring the delay and consider the interests of the victim of a crime to a speedy disposition of the case.</p> <p>(b) If a continuance is granted, the court shall enter in the record the specific reason for the continuance and the procedures that have been taken to avoid further delays.</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> Utah Code Ann. § 77-37-3(1)(h) guarantees victims, particularly children, the right to a speedy disposition of the entire criminal justice process.</p>	
<p>Victims’ Right to Age-Appropriate Language at Judicial Proceedings.</p> <p>(1) In any criminal proceeding or juvenile court proceeding regarding or involving a child, examination and cross-examination of a victim or witness 13 years of age or younger shall be conducted in age-appropriate language.</p> <p>(2)(a) The court may appoint an advisor to assist a witness 13 years of age or younger in understanding questions asked by counsel.</p> <p>(b) The advisor is not required to be an attorney.</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Utah Code Ann. § 77-38-8.</p>

 Utah Code Ann. § 77-37-3(1)(c) guarantees victims the right to clear explanations regarding legal proceedings, including the right to age appropriate explanations.	
<p>Victims' Right to Designate Representative to Exercise Rights.</p> <p>(1)(a) A victim of a crime may designate, with the approval of the court, a representative who may exercise the same rights that the victim is entitled to exercise under this chapter, including pursuing restitution.</p> <p>(b) Except as otherwise provided in this section, the victim may revoke the designation at any time.</p> <p>(c) In cases where the designation is in question, the court may require that the designation of the representative be made in writing by the victim.</p> <p>(2) In cases in which the victim is deceased or incapacitated, upon request from the victim's spouse, parent, child, or close friend, the court shall designate a representative or representatives of the victim to exercise the rights of a victim under this chapter on behalf of the victim. The responsible prosecuting agency may request a designation to the court.</p> <p>(3)(a) If the victim is a minor, the court in its discretion may allow the minor to exercise the rights of a victim under this chapter or may allow the victim's parent or other immediate family member to act as a representative of the victim.</p> <p>(b) The court may also, in its discretion, designate a person who is not a member of the immediate family to represent the interests of the minor.</p> <p>(4) The representative of a victim of a crime shall not be:</p> <p>(a) the accused or a person who appears to be accountable or otherwise criminally responsible for or criminally involved in the crime or conduct, a related crime or conduct, or a crime or act arising from the same conduct, criminal episode, or plan as the crime or conduct is defined under the laws of this state;</p> <p>(b) a person in the custody of or under detention of federal, state, or local authorities; or</p> <p>(c) a person whom the court in its discretion considers to be otherwise inappropriate.</p>	<p>Utah Code Ann. § 77-38-9.</p>

<p>(5) Any notices that are to be provided to a victim pursuant to this chapter shall be sent to the victim or the victim's lawful representative.</p> <p>(6) On behalf of the victim, the prosecutor may assert any right to which the victim is entitled under this chapter, unless the victim requests otherwise or exercises his own rights.</p> <p>(7) In any homicide prosecution, the prosecution may introduce a photograph of the victim taken before the homicide to establish that the victim was a human being, the identity of the victim, and for other relevant purposes.</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	
<p>Victims' Discretion to Exercise Rights; Limitations on Victims' Discretion.</p> <p>(1)(a) The victim may exercise any rights under this chapter at his discretion to be present and to be heard at a court proceeding, including a juvenile delinquency proceeding.</p> <p>(b) The absence of the victim at the court proceeding does not preclude the court from conducting the proceeding.</p> <p>(2) A victim shall not refuse to comply with an otherwise lawful subpoena under this chapter.</p> <p>(3) A victim shall not prevent the prosecution from complying with requests for information within a prosecutor's possession and control under this chapter.</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Utah Code Ann. § 77-38-10.</p>

<p>Enforcement of Victims' Rights; Victim Standing to Enforce Rights Personally or Through a Representative; Prosecutor Standing; Appellate Review; No Right to Money Damages.</p> <p>(1) If a person acting under color of state law willfully or wantonly fails to perform duties so that the rights in this chapter are not provided, an action for injunctive relief, including prospective injunctive relief, may be brought against the individual and the governmental entity that employs the individual.</p> <p>(2)(a) The victim of a crime or representative of a victim of a crime, including any Victims' Rights Committee as defined in Section 77-37-5 may:</p> <ul style="list-style-type: none"> (i) bring an action for declaratory relief or for a writ of mandamus defining or enforcing the rights of victims and the obligations of government entities under this chapter; (ii) petition to file an amicus brief in any court in any case affecting crime victims; and (iii) after giving notice to the prosecution and the defense, seek an appropriate remedy for a violation of a victim's right from the judge assigned to the case involving the issue as provided in Section 77-38-11. <p>(b) Adverse rulings on these actions or on a motion or request brought by a victim of a crime or a representative of a victim of a crime may be appealed under the rules governing appellate actions, provided that an appeal may not constitute grounds for delaying any criminal or juvenile proceeding.</p> <p>(c) An appellate court shall review all properly presented issues, including issues that are capable of repetition but would otherwise evade review.</p> <p>(3)(a) Upon a showing that the victim has not unduly delayed in seeking to protect the victim's right, and after hearing from the prosecution and the defense, the judge shall determine whether a right of the victim has been violated.</p> <p>(b) If the judge determines that a victim's right has been violated, the judge shall proceed to determine the appropriate remedy for the violation of the victim's right by hearing from the victim and the parties, considering all factors relevant to the issue, and then awarding an appropriate remedy to the victim. The court shall reconsider any judicial decision or judgment affected by a violation of the victim's right and determine whether, upon affording</p>	<p>Utah Code Ann. § 77-38-11.</p>
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the victim the right and further hearing from the prosecution and the defense, the decision or judgment would have been different. If the court's decision or judgment would have been different, the court shall enter the new different decision or judgment as the appropriate remedy. If necessary to protect the victim's right, the new decision or judgment shall be entered nunc pro tunc to the time the first decision or judgment was reached. In no event shall the appropriate remedy be a new trial, damages, attorney fees, or costs.

(c) The appropriate remedy shall include only actions necessary to provide the victim the right to which the victim was entitled and may include reopening previously held proceedings. Subject to Subsection (3)(d), the court may reopen a sentence or a previously entered guilty or no contest plea only if doing so would not preclude continued prosecution or sentencing the defendant and would not otherwise permit the defendant to escape justice. Any remedy shall be tailored to provide the victim an appropriate remedy without violating any constitutional right of the defendant.

(d) If the court sets aside a previously entered plea of guilty or no contest, and thereafter continued prosecution of the charge is held to be prevented by the defendant's having been previously put in jeopardy, the order setting aside the plea is void and the plea is reinstated as of the date of its original entry.

(e) The court may not award as a remedy the dismissal of any criminal charge.

(f) The court may not award any remedy if the proceeding that the victim is challenging occurred more than 90 days before the victim filed an action alleging the violation of the right.


(4) The failure to provide the rights in this chapter or Title 77, Chapter 37, Victims' Rights, shall not constitute cause for a judgment against the state or any government entity, or any individual employed by the state or any government entity, for monetary damages, attorney fees, or the costs of exercising any rights under this chapter.







Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."



The prosecutor's standing to enforce victims' rights does not deny or diminish victims' standing to enforce their rights.

 A promising practice is that when notifying victims that they have standing to enforce their rights in court, to let them know that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.	
<p>Construction of Rights of Crime Victims Act; No Right to Set Aside Conviction, Adjudication, Admission or Plea; Severability.</p> <p>(1) All of the provisions contained in this chapter shall be construed to assist the victims of crime.</p> <p>(2) This chapter may not be construed as creating a basis for dismissing any criminal charge or delinquency petition, vacating any adjudication or conviction, admission or plea of guilty or no contest, or for a defendant to obtain appellate, habeas corpus, or other relief from a judgment in any criminal or delinquency case.</p> <p>(3) This chapter may not be construed as creating any right of a victim to appointed counsel at state expense.</p> <p>(4) All of the rights contained in this chapter shall be construed to conform to the Constitution of the United States.</p> <p>(5)(a) In the event that any portion of this chapter is found to violate the Constitution of the United States, the remaining provisions of this chapter shall continue to operate in full force and effect.</p> <p>(b) In the event that a particular application of any portion of this chapter is found to violate the Constitution of the United States, all other applications shall continue to operate in full force and effect.</p> <p>(6) The enumeration of certain rights for crime victims in this chapter shall not be construed</p>	<p>Utah Code Ann. § 77-38-12.</p>

<p>to deny or disparage other rights granted by the Utah Constitution or the Legislature or retained by victims of crimes.</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Victims’ Right to Object to a Petition for Expungement.</p> <p>(1)(a) The Department of Corrections or the Juvenile Probation Department shall prepare a document explaining the right of a victim or a victim’s representative to object to a petition for expungement under Section 77-40-107 or 78A-6-1503 and the procedures for obtaining notice of the petition.</p> <p>(b) The department or division shall provide each trial court a copy of the document that has jurisdiction over delinquencies or criminal offenses subject to expungement.</p> <p>(2) The prosecuting attorney in any case leading to a conviction, a charge dismissed in accordance with a plea in abeyance agreement, or an adjudication subject to expungement shall provide a copy of the document to each person who would be entitled to notice of a petition for expungement under Sections 77-40-107 and 78A-6-1503.</p> <p> Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Utah Code Ann. § 77-38-14.</p>
<p>Confidential Communications for Sexual Assault Act: Sexual Assault Counselor-Victim Confidentiality.</p> <p>Notwithstanding Title 53B, Chapter 28, Part 2, Confidential Communications for Institutional Advocacy Services Act, the confidential communication between a victim and a sexual assault counselor is available to a third person only when:</p>	<p>Utah Code Ann. § 77-38-204.</p>

<p>(1) the victim is a minor and the counselor believes it is in the best interest of the victim to disclose the confidential communication to the victim's parents;</p> <p>(2) the victim is a minor and the minor's parents or guardian have consented to disclosure of the confidential communication to a third party based upon representations made by the counselor that it is in the best interest of the minor victim to make such disclosure;</p> <p>(3) the victim is not a minor, has given consent, and the counselor believes the disclosure is necessary to accomplish the desired result of counseling; or</p> <p>(4) the counselor has an obligation under Title 62A, Chapter 4a, Child and Family Services, to report information transmitted in the confidential communication.</p> <p> Utah Code Ann. § 77-38-203 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> The purpose of the Confidential Communications for Sexual Assault Act is "to enhance and promote the mental, physical and emotional recovery of victims of sexual assault and to protect the information given by victims to sexual assault counselors from being disclosed." Utah Code Ann. § 77-38-202.</p>	
<p>Privileged Communications with Victim Advocates Act: Victim Advocate-Victim Confidentiality.</p> <p>(1)(a) A victim advocate may not disclose a confidential communication with a victim, including a confidential communication in a group therapy session, except:</p> <p>(i) that a criminal justice system victim advocate shall provide the confidential communication to a prosecutor who is responsible for determining whether the confidential communication is exculpatory or goes to the credibility of a witness;</p> <p>(ii) that a criminal justice system victim advocate may provide the confidential</p>	<p>Utah Code Ann. § 77-38-405.</p>

communication to a parent or guardian of a victim if the victim is a minor and the parent or guardian is not the accused, or a law enforcement officer, health care provider, mental health therapist, domestic violence shelter employee, an employee of the Utah Office for Victims of Crime, or member of a multidisciplinary team assembled by a Children's Justice Center or a law enforcement agency for the purpose of providing advocacy services; or (iii) to the extent allowed by the Utah Rules of Evidence.

(b) If a prosecutor determines that the confidential communication is exculpatory or goes to the credibility of a witness, after the court notifies the victim and the defense attorney of the opportunity to be heard at an in camera review, the prosecutor will present the confidential communication to the victim, defense attorney, and the court for in camera review in accordance with the Utah Rules of Evidence.

(2) A record that contains information from a confidential communication between a victim advocate and a victim may not be disclosed under Title 63G, Chapter 2, Government Records Access and Management Act, to the extent that it includes the information about the confidential communication.



(3) A criminal justice system victim advocate, as soon as reasonably possible, shall notify a victim, or a parent or guardian of the victim if the victim is a minor and the parent or guardian is not the accused:

(a) whether a confidential communication with the criminal justice system victim advocate will be disclosed to a prosecutor and whether a statement relating to the incident that forms the basis for criminal charges or goes to the credibility of a witness will also be disclosed to the defense attorney; and

(b) of the name, location, and contact information of one or more nongovernment organization advocacy services providers specializing in the victim's service needs, when a nongovernment organization advocacy services provider exists and is known to the criminal justice system victim advocate.



Utah Code Ann. § 77-38-403 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."

<p> The purpose of the Privileged Communications with Victim Advocates Act is “to enhance and promote the mental, physical, and emotional recovery of victims by restricting the circumstances under which a confidential communication with the victim may be disclosed.” Utah Code Ann. § 77-38-402.</p> <p> This provision “governs the disclosure of a confidential communication to a victim advocate, except that: (1) if Title 53B, Chapter 28, Part 2, Confidential Communications for Institutional Advocacy Services Act, applies, that part governs; and (2) if Part 2, Confidential Communications for Sexual Assault Act, applies, that part governs.” Utah Code Ann. § 77-38-404.</p>	
<p>Victims Guidelines for Prosecutors Regarding U-Visas.</p> <p>(1) Upon the request of the victim or victim’s family member, a certifying official from a certifying entity shall certify victim helpfulness on the Form I-918 Supplement B certification, if the certifying entity determines the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity.</p> <p>(2) A certifying entity shall determine helpfulness as described in Subsection (1) in a manner consistent with federal guidelines.</p> <p>(3) A certifying entity shall process a Form I-918 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within 14 days of request.</p> <p>(4) A current investigation, the filing of charges, a prosecution, or a conviction are not required for the victim to request the Form I-918 Supplement B certification from a certifying official.</p> <p>(5) A certifying official may withdraw a Form I-918 Supplement B certification if:</p>	<p>Utah Code Ann. § 77-38-503.</p>

(a) the victim refuses to provide information and assistance when reasonably requested; or
(b) the certifying entity determines that the individual is not a victim of a qualifying criminal activity.

(6) A certifying entity is prohibited from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law, or if authorized by the victim or person requesting the Form I-918 Supplement B certification.

(7)(a) Each certifying entity shall maintain records of the following information related to each request for a Form I-918 Supplement B certification:

(i) the number of victims that requested Form I-918 Supplement B certifications from the entity;

(ii) the number of those Form I-918 Supplement B certifications that were signed; and

(iii) the number of Form I-918 Supplement B certifications that were denied.

(b) Each certifying entity shall report the information described in Subsection (7)(a) to the commission before June 30, 2021, and each year thereafter.

(c) The commission shall report the information received pursuant to Subsection (7)(b) to the Judiciary Interim Committee of the Legislature on or before November 30 of each year.

(8)(a) A certifying entity may not disclose personal identifying information, or information regarding the citizenship or immigration status of any victim of criminal activity or trafficking who is requesting a certification unless:

(i) required to do so by applicable state or federal law or court order; or

(ii) the certifying agency has written authorization from:







(A) the victim; or

(B) if the victim is a minor or is otherwise not legally competent, from the victim's parent or guardian.



(b) Subsection (8)(a) does not modify legal obligations of a prosecutor or law enforcement to disclose information and evidence to a defendant.






Utah Code Ann. § 77-38-502 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."

<p> The Form I-918 Supplement B certification discussed in this statutory provision is the form necessary for victims to apply for temporary immigration benefits under a U-Visa.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p>Victims’ Right to Restitution: Law Enforcement’s Duties and Responsibilities Regarding Restitution Determination.</p> <p>Any law enforcement agency conducting an investigation for criminal conduct which would constitute a felony or class A misdemeanor shall provide in the investigative reports whether a claim for restitution exists, the basis for the claim, and the estimated or actual amount of the claim.</p> <p> Utah Code Ann. § 77-38a-102 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> For information regarding the prosecution’s duties and responsibilities, <i>see</i> Utah Code Ann. § 77-38a-202.</p> <p> For information regarding restitution criteria, <i>see</i> Utah Code Ann. § 77-38a-302.</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	<p>Utah Code Ann. § 77-38a-201.</p>


<p>Victims' Right to Restitution: Presentence Investigation; Victim Impact Statement.</p> <p>(1)(a) The department shall prepare a presentence investigation report in accordance with Subsection 77-18-1(5). The prosecutor and law enforcement agency involved shall provide all available victim information to the department upon request. The victim impact statement shall:</p> <ul style="list-style-type: none"> (i) identify all victims of the offense; (ii) itemize any economic loss suffered by the victim as a result of the offense; (iii) include for each identifiable victim a specific statement of the recommended amount of complete restitution as defined in Section 77-38a-302, accompanied by a recommendation from the department regarding the payment by the defendant of court-ordered restitution with interest as defined in Section 77-38a-302; (iv) identify any physical, mental, or emotional injuries suffered by the victim as a result of the offense, and the seriousness and permanence; (v) describe any change in the victim's personal welfare or familial relationships as a result of the offense; (vi) identify any request for mental health services initiated by the victim or the victim's family as a result of the offense; and (vii) contain any other information related to the impact of the offense upon the victim or the victim's family that the court requires. <p>(b) The crime victim shall be responsible to provide to the department upon request all invoices, bills, receipts, and other evidence of injury, loss of earnings, and out-of-pocket loss. The crime victim shall also provide upon request:</p> <ul style="list-style-type: none"> (i) all documentation and evidence of compensation or reimbursement from insurance companies or agencies of the state of Utah, any other state, or federal government received as a direct result of the crime for injury, loss, earnings, or out-of-pocket loss; and (ii) proof of identification, including date of birth, Social Security number, drivers license number, next of kin, and home and work address and telephone numbers. <p>(c) The inability, failure, or refusal of the crime victim to provide all or part of the requested information shall result in the court determining restitution based on the best information available.</p>	<p>Utah Code Ann. § 77-38a-203.</p>
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<p>(2)(a) The court shall order the defendant as part of the presentence investigation to:</p> <ul style="list-style-type: none"> (i) complete a financial declaration form described in Section 77-38a-204; and (ii) submit to the department any additional information determined necessary to be disclosed for the purpose of ascertaining the restitution. <p>(b) The willful failure or refusal of the defendant to provide all or part of the requisite information shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed information.</p> <p>(c) If the defendant objects to the imposition, amount, or distribution of the restitution recommended in the presentence investigation, the court shall set a hearing date to resolve the matter.</p> <p>(d) If any party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.</p> <p> Utah Code Ann. § 77-38a-102 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p>Confidential Communications for Institutional Advocacy Services.</p> <p>(1) Except as provided in Subsection (2), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a person may not disclose a confidential communication.</p> <p>(2) A person may disclose a confidential communication if:</p> <ul style="list-style-type: none"> (a) the victim gives written and informed consent to the disclosure; (b) the person has an obligation to disclose the confidential communication under Section 62A-3-305 [vulnerable adult], 62A-4a-403 [child], or 78B-3-502 [violent behavior]; 	<p>Utah Code Ann. § 53B-28-202.</p>



<p>(c) the disclosure is required by federal law; or (d) a court of competent jurisdiction orders the disclosure.</p> <p> Utah Code Ann. § 53B-28-201 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> The institution referenced in this confidentiality protection is “a public or private postsecondary institution that is located in Utah, including an institution of higher education listed in Section 53B-1-102.” Utah Code Ann. § 53B-28-102.</p>	
<p>Victims’ Right to Notification of an Offender’s Release or Escape.</p> <p>(1) [Definitions, included above in “Select Definitions.”]</p> <p>(2)(a) A victim shall be notified of an offender’s release under Sections 64-13-14.5 and 64-13-14.7, or any other release to or from a half-way house, to a program outside of the prison such as a rehabilitation program, state hospital, community center other than a release on parole, commutation or termination for which notice is provided under Sections 77-27-9.5 and 77-27-9.7, transfer of the offender to an out-of-state facility, or an offender’s escape, upon submitting a signed written request of notification to the Department of Corrections. The request shall include a current mailing address and may include current telephone numbers if the victim chooses.</p> <p>(b) The department shall advise the victim of an offender’s release or escape under Subsection (2)(a), in writing. However, if written notice is not feasible because the release is immediate or the offender escapes, the department shall make a reasonable attempt to notify the victim by telephone if the victim has provided a telephone number under Subsection (2)(a) and shall follow up with a written notice.</p> <p>(3) Notice of victim rights under this section shall be provided to the victim in the notice of hearings regarding parole under Section 77-27-9.5. The department shall coordinate with the Board of Pardons and Parole to ensure the notice is implemented.</p>	<p>Utah Code Ann. § 64-13-14.7.</p>



<p>(4) A victim's request for notification under this section and any notification to a victim under this section is private information that the department may not release:</p> <ul style="list-style-type: none"> (a) to the offender under any circumstances; or (b) to any other party without the written consent of the victim. <p>(5) The department may make rules as necessary to implement this section.</p> <p>(6) The department or its employees acting within the scope of their employment are not civilly or criminally liable for failure to provide notice or improper notice under this section unless the failure or impropriety is willful or grossly negligent.</p> <p> Utah Code Ann. § 64-13-14.7(1). defines the terms used in statutory provision. These definitions are included above in the section "Select Definitions."</p>	
<p>Sexual Assault Kit Processing Act: Restricted Kits.</p> <p>(1) Unless the health care provider designates a sexual assault kit as a restricted kit, the collecting facility shall enter the required victim information into the statewide sexual assault kit tracking system, defined in Section 76-5-607, within 24 hours of performing a sexual assault examination.</p> <p>(2) A restricted kit may only be designated as a restricted kit:</p> <ul style="list-style-type: none"> (a) by a health care provider; and (b) at the time of collection. <p>(3) Each sexual assault kit collected by medical personnel shall be taken into custody by a law enforcement agency as soon as possible and within one business day of notice from the collecting facility.</p>	<p>Utah Code Ann. §76-5-604.</p>



<p>(4) The law enforcement agency that receives a sexual assault kit shall enter the required information into the statewide sexual assault kit tracking system, provided in Section 76-5-607, within five business days of receiving a sexual assault kit from a collecting facility.</p> <p>(5) Each sexual assault kit received by a law enforcement agency from a collecting facility that relates to an incident that occurred outside of the jurisdiction of the law enforcement agency shall be transferred to the law enforcement agency with jurisdiction over the incident within 10 days of learning that another law enforcement agency has jurisdiction.</p> <p>(6)(a) Except for restricted kits, each sexual assault kit shall be submitted to the Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after receipt by a law enforcement agency.</p> <p>(b) Restricted kits may not be submitted to the Utah Bureau of Forensic Services.</p> <p>(c) Restricted kits shall be maintained by the law enforcement agency with jurisdiction, in accordance with the provisions of this part.</p> <p>(d) A restricted kit may be changed to an unrestricted kit if the victim informs the designated law enforcement agency that he or she wants to have the sexual assault kit processed and agrees to release of the sexual assault examination form with the sexual assault kit. Once a victim indicates that he or she wants the sexual assault kit processed:</p> <p>(i) the kit may no longer be classified as restricted; and</p> <p>(ii) the kit shall be transmitted to the Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after the victim chooses to unrestrict his or her kit with law enforcement.</p> <p>(7) If available, a suspect standard or a consensual partner elimination standard shall be submitted to the Utah Bureau of Forensic Services:</p> <p>(a) with the sexual assault kit, if available, at the time the sexual assault kit is submitted; or</p> <p>(b) as soon as possible, but no later than 30 days from the date the kit was obtained by the law enforcement agency, if not obtained until after the sexual assault kit is submitted.</p> <p>(8) Failure to meet a deadline established in this part or as part of any rules established by the department is not a basis for dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.</p>	
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 <p>Utah Code Ann. § 76-5-601 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Sexual Assault Kit Processing Act: Duties of Law Enforcement Officers Regarding Notice to Victims.</p> <p>(1) Collecting facility personnel who conduct sexual assault examinations shall inform each victim of a sexual assault of:</p> <ul style="list-style-type: none"> (a) available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric conditions; (b) available crisis intervention or other mental health services provided; (c) the option to receive prophylactic medication to prevent sexually transmitted infections and pregnancy; (d) the right to determine: <ul style="list-style-type: none"> (i) whether to provide a personal statement about the sexual assault to law enforcement; and (ii) if law enforcement should have access to any paperwork from the forensic examination; and (e) the victim’s rights as provided in Section 77-37-3. <p>(2) The collecting facility shall notify law enforcement as soon as practicable if the victim of a sexual assault decides to interview and discuss the assault with law enforcement.</p> <p>(3) If a victim of a sexual assault declines to provide a personal statement about the sexual assault to law enforcement, the collecting facility shall provide a written notice to the victim that contains the following information:</p> <ul style="list-style-type: none"> (a) where the sexual assault kit will be stored; (b) notice that the victim may choose to contact law enforcement any time after declining to provide a personal statement; (c) the name, phone number, and email address of the law enforcement agency having jurisdiction; and (d) the name and phone number of a local rape crisis center 	<p>Utah Code Ann. §76-5-606.</p>

 Utah Code Ann. § 76-5-601 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”	
<p>Cohabitant Abuse Procedures Act: Duties of Law Enforcement Officers Regarding Victim Notice.</p> <p>(1) A law enforcement officer who responds to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including:</p> <ul style="list-style-type: none"> (a) taking the action that, in the officer’s discretion, is reasonably necessary to provide for the safety of the victim and any family or household member; (b) confiscating the weapon or weapons involved in the alleged domestic violence; (c) making arrangements for the victim and any child to obtain emergency housing or shelter; (d) providing protection while the victim removes essential personal effects; (e) arrange, facilitate, or provide for the victim and any child to obtain medical treatment; and (f) arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence, in accordance with Subsection (2). <p>(2)(a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, and Title 78B, Chapter 7, Part 2, Child Protective Orders.</p> <p>(b) The written notice shall also include:</p> <ul style="list-style-type: none"> (i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk’s office in the judicial district where the victim resides or is temporarily domiciled; (ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance; and (iii) the information required to be provided to both parties in accordance with Subsections 77-20-3.5(10) and (11). 	<p>Utah Code Ann. § 77-36-2.1.</p>

<p>(3) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a domestic violence protective order is not issued or once the domestic violence protective order is terminated.</p> <p> Utah Code Ann. § 77-36-1 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place determining who is responsible for providing victims notice of their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing written notice at or promptly after the victims’ initial contact with law enforcement. The notice should be provided in the primary language of the victim when possible, as well as in a form accessible to those with vision impairment.</p>	
<p>Dating Violence Protection Act: Duties of Law Enforcement Officers Regarding Notice to Victims.</p> <p>(1) A law enforcement officer who responds to an allegation of dating violence shall use all reasonable means to protect the victim and prevent further violence, including:</p> <ul style="list-style-type: none"> (a) taking action that, in the officer’s discretion, is reasonably necessary to provide for the safety of the victim and any family or household member; (b) confiscating the weapon or weapons involved in the alleged dating violence; (c) making arrangements for the victim and any child to obtain emergency housing or shelter; (d) providing protection while the victim removes essential personal effects; (e) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and (f) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of dating violence, in accordance with Subsection (2). <p>(2)(a) A law enforcement officer shall give written notice to the victim in simple language,</p>	<p>Utah Code Ann. § 78B-7-408.</p>

<p>describing the rights and remedies available under this chapter.</p> <p>(b) The written notice shall also include:</p> <p>(i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and</p> <p>(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.</p> <p>(3) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a dating protective order is not issued or once the dating protective order is terminated.</p> <p> Utah Code Ann. § 78B-7-401 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have a policy and procedure in place determining who is responsible for providing victims notice of their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing written notice at or promptly after the victims' initial contact with law enforcement. The notice should be provided in the primary language of the victim when possible, as well as in a form accessible to those with vision impairment.</p>	
<p>Sexual Violence Protection Act: Duties of Law Enforcement Officers Regarding Notice to Victims.</p> <p>(1) A law enforcement officer who responds to an allegation of sexual violence shall use all reasonable means to protect the victim and prevent further sexual violence, including:</p> <p>(a) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;</p> <p>(b) making arrangements for the victim and any child to obtain emergency housing or shelter;</p>	<p>Utah Code Ann. § 78B-7-509.</p>

<p>(c) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and</p> <p>(d) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of the victim and of the remedies and services available to victims of sexual violence, in accordance with Subsection (2).</p> <p>(2)(a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this part.</p> <p>(b) The written notice shall also include:</p> <p>(i) a statement that the forms needed in order to obtain a protective order are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and</p> <p>(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.</p> <p> Utah Code Ann. § 78B-7-509 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have a policy and procedure in place determining who is responsible for providing victims notice of their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing written notice at or promptly after the victims' initial contact with law enforcement. The notice should be provided in the primary language of the victim when possible, as well as in a form accessible to those with vision impairment.</p>	
<p>Subpoenas in Criminal Cases; Subpoenas for Victims' Records.</p> <p>(a) Subpoenas Requiring the Attendance of a Witness or Interpreter and Production or Inspection of Records, Papers, or Other Objects.</p> <p>(1) A subpoena to require the attendance of a witness or interpreter before a court, magistrate or grand jury in connection with a criminal investigation or prosecution may be issued by</p>	<p>Utah R. Crim. Proc. 14.</p>

the magistrate with whom an information is filed, the prosecuting attorney on his or her own initiative or upon the direction of the grand jury, or the court in which an information or indictment is to be tried. The clerk of the court in which a case is pending must issue in blank to the defendant, without charge, as many signed subpoenas as the defendant may require. An attorney admitted to practice in the court in which the action is pending may also issue and sign a subpoena as an officer of the court.

(2) A subpoena may command the person to whom it is directed to appear and testify or to produce in court or to allow inspection of records, papers or other objects, other than those records pertaining to a victim covered by Subsection (b). The court may quash or modify the subpoena if compliance would be unreasonable.

(3) A subpoena may be served by any person over the age of 18 years who is not a party. Service must be made by delivering a copy of the subpoena to the witness or interpreter personally and notifying the witness or interpreter of the contents. A peace officer must serve any subpoena delivered for service in the peace officer's county.

(4) Written return of service of a subpoena must be made promptly to the court and to the person requesting that the subpoena be served, stating the time and place of service and by whom service was made.

(5) A subpoena may compel the attendance of a witness from anywhere in the state.

(6) When a person required as a witness is in custody within the state, the court may order the officer having custody of the witness to bring the witness before the court.

(7) Failure to obey a subpoena without reasonable excuse may be deemed a contempt of the court responsible for its issuance.

(8) If a party has reason to believe a material witness is about to leave the state, is will be too ill or infirm to attend a trial or hearing, or will not appear and testify pursuant to a subpoena, the party may, upon notice to the other, apply to the court for an order that the witness be examined conditionally by deposition. The party must file an affidavit providing facts to support the party's request. Attendance of the witness at the deposition may be compelled by subpoena. The defendant shall be present at the deposition and the court will make whatever order is necessary to effect such attendance. A deposition may be used as substantive evidence at the trial or hearing to the extent it would otherwise be admissible under the Rules of Evidence if the witness is too ill or infirm to attend, the party offering the deposition has been unable to obtain the attendance of the witness by subpoena, or the witness refuses to testify despite a court order to do so.

(b) Subpoenas for the Production of Records of Victim.

(1) No subpoena or court order compelling the production of medical, mental health, school, or other privileged records pertaining to a victim shall be issued by or at the request of any party unless the court finds after a hearing, upon notice as provided below, that the records are material and the party is entitled to production of the records sought under applicable rules of privilege, and state and federal law.

(2) The request for the subpoena or court order shall identify the records sought with particularity and be reasonably limited as to subject matter.

(3) The request for the subpoena or court order shall be filed with the court as soon as practicable, but no later than 28 days before trial, or by such other time as permitted by the court. The request and notice of any hearing shall be served on counsel for the victim or victim's representative and on the opposing party. Service on an unrepresented victim must be facilitated through the prosecutor. The prosecutor must make reasonable efforts to provide a copy of the request for the subpoena to the victim or victim's representative within 14 days of receiving it.

(4) If the court makes the required findings under subsection (b)(1), it must issue a subpoena or order requiring the production of the records to the court. The court will then conduct an in camera review of the records and disclose to the defense and prosecution only those portions that the requesting party has demonstrated a right to inspect.

(5) Any party issuing a subpoena for non-privileged records, papers or other objects pertaining to a victim must serve a copy of the subpoena upon the victim or victim's representative. Service on an unrepresented victim must be facilitated through the prosecutor. The prosecutor must make reasonable efforts to provide a copy of the subpoena to the victim within 14 days of receiving it. The subpoena may not require compliance in less than 14 days after service on the prosecutor or victim's representative.

(6) The court may, in its discretion or upon motion of either party or the victim or the victim's representative, issue any reasonable order to protect the privacy of the victim or to limit dissemination of disclosed records.

(7) For purposes of this rule, "victim" and "victim's representative" are used as defined in Utah Code § 77-38-2.

(8) Nothing in this rule alters or supersedes other rules, privileges, statutes or caselaw pertaining to the release or admissibility of an individual's medical, psychological, school

<p>or other records.</p> <p>(c) Applicability of Rule 45, Utah Rules of Civil Procedure. The provisions of Rule 45, Utah Rules of Civil Procedure, will govern the content, issuance, objections to, and service of subpoenas to the extent those provisions are consistent with the Utah Rules of Criminal Procedure.</p>	
<p>Victim Advocate-Victim Privilege.</p> <p>(b) Statement of the Privilege. A victim communicating with a victim advocate has a privilege during the victim's life to refuse to disclose and to prevent any other person from disclosing a confidential communication.</p> <p>(c) Who May Claim the Privilege. The privilege may be claimed by the victim engaged in a confidential communication, or the guardian or conservator of the victim engaged in a confidential communication if the guardian or conservator is not the accused. An individual who is a victim advocate at the time of a confidential communication is presumed to have authority during the life of the victim to claim the privilege on behalf of the victim.</p> <p>(d) Exceptions. An exception to the privilege exists in the following circumstances:</p> <p>(1) when the victim, or the victim's guardian or conservator if the guardian or conservator is not the accused, provides written, informed, and voluntary consent for the disclosure, and the written disclosure contains:</p> <p>(A) the specific confidential communication subject to disclosure;</p> <p>(B) the limited purpose of the disclosure; and</p> <p>(C) the name of the individual or party to which the specific confidential communication may be disclosed;</p> <p>(2) when the confidential communication is required to be disclosed under Title 62A, Chapter 4a, Child and Family Services, or UCA § 62A-3-305;</p> <p>(3) when the confidential communication is evidence of a victim being in clear and immediate danger to the victim's self or others;</p> <p>(4) when the confidential communication is evidence that the victim has committed a crime,</p>	<p>Utah R. Evid. 512(b)–(d).</p>

plans to commit a crime, or intends to conceal a crime;

(5) if the confidential communication is with a criminal justice system victim advocate, the criminal justice system victim advocate may disclose the confidential communication to a parent or guardian if the victim is a minor and the parent or guardian is not the accused, or a law enforcement officer, health care provider, mental health therapist, domestic violence shelter employee, an employee of the Utah Office for Victims of Crime, or member of a multidisciplinary team assembled by a Children's Justice Center or law enforcement agency for the purpose of providing advocacy services;

(6) if the confidential communication is with a criminal justice system victim advocate, the criminal justice system victim advocate must disclose the confidential communication to a prosecutor under UCA § 77-38-405;

(7) if the confidential communication is with a criminal justice system victim advocate, and a court determines, after the victim and the defense attorney have been notified and afforded an opportunity to be heard at an in camera review, that:

(A) the probative value of the confidential communication and the interest of justice served by the admission of the confidential communication substantially outweigh the adverse effect of the admission of the confidential communication on the victim or the relationship between the victim and the criminal justice system victim advocate; or

(B) the confidential communication is exculpatory evidence, including impeachment evidence.



Utah R. Evid. 512(a) defines the terms used in this evidentiary privilege. These definitions are included above in the section "Select Definitions."

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