



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.

This resource was developed by the National Crime Victim Law Institute (NCVLI) under 2020-V3-GX-K001, awarded to the International Association of Chiefs of Police (IACP) by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this draft publication are those of the contributors and do not necessarily represent the official position of the U.S. Department of Justice.

TABLE OF CONTENTS AND INDEX OF RIGHTS¹

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 Utah Code Ann. § 77-37-1 through § 77-37-5. These statutory provisions are included below in the section "Select Crime Victims' Rights."</p>	Utah Code Ann. § 77-37-2.
<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>(1) "Abuse" means treating the crime victim in a manner so as to injure, damage, or</p>	Utah Code Ann. § 77-38-2.

disparage.

- (2) "Dignity" means treating the crime victim with worthiness, honor, and esteem.
- (3) "Fairness" means treating the crime victim reasonably, even-handedly, and impartially.
- (4) "Harassment" means treating the crime victim in a persistently annoying manner.
- (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:
 - (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.
- (6) "Reliable information" means information worthy of confidence, including any information whose use at sentencing is permitted by the United States Constitution.
- (7) "Representative of a victim" means a person who is designated by the victim or designated by the court and who represents the victim in the best interests of the victim.

(8) "Respect" means treating the crime victim with regard and value.

(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.

(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.

(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.



These definitions apply to the Rights of Crime Victims Act, Utah Code Ann. §§ 77-38-1 through 77-38-15. Many of these statutory provisions are included below in the section "Select Crime Victims' Rights."

Confidential Communications for Sexual Assault Act Definitions.

Utah Code Ann. § 77-38-203.

As used in this part:

(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 relationship.

(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.

(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.

(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.



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."

Privileged Communications with Victim Advocates Act Definitions.

Utah Code Ann. § 77-38-403.

As used in this part:

(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.

(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.

(3) "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.

(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 an 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.

(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.

(9) "Victim" means:

- (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-7-102.

(10)(a) "Victim advocate" means:

- (I) a criminal justice system victim advocate;
 - (II) a nongovernment organization victim advocate; or
 - (III) 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.
- (b) "Victim advocate" does not include an employee of the Utah Office for Victims of Crime.



These definitions apply to the Privileged Communications with Victim Advocates Act, Utah Code Ann. §§ 77-38-401 through 77-38-405.

Victims Guidelines for Prosecutors Act Definitions.

Utah Code Ann. § 77-38-502.

As used in this part:

(1) "Certifying entity" means any of the following:

- (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
- (e) an agency that has criminal detection or investigative jurisdiction in the agency's respective areas of expertise, including:

<p>(i) the Division of Child and Family Services; and (ii) the Labor Commission.</p> <p>(2) "Certifying official" means: (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> <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. (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)(a) "Conviction" means: (i) a plea of: (A) guilty; (B) guilty with a mental illness; or</p>	Utah Code Ann. § 77-38b-102.

(C) no contest; or (ii) a judgment of: (A) guilty; or (B) guilty with a mental illness. (b) "Conviction" does not include: (i) a plea in abeyance until a conviction is entered for the plea in abeyance; (ii) a diversion agreement; or (iii) an adjudication of a minor for an offense under Section 80-6-701. (2) "Criminal conduct" means: (a) any misdemeanor or felony offense of which the defendant is convicted; or (b) any other criminal behavior for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal behavior. (3)(a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, criminal conduct. (b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80, Chapter 6, Juvenile Justice. (4) "Department" means the Department of Corrections. (5) "Diversion agreement" means an agreement entered into by the prosecuting attorney and the defendant that suspends criminal proceedings before conviction on the condition that a defendant agree to participate in a rehabilitation program, pay restitution to the victim, or fulfill some other condition. (6) "Office" means the Office of State Debt Collection created in Section 63A-3-502. (7) "Party" means the prosecuting attorney, the defendant, or the department involved in a prosecution.	
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- (8) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- (9)(a) "Pecuniary damages" means all demonstrable economic injury, losses, and expenses regardless of whether the economic injury, losses, and expenses have yet been incurred.
- (b) "Pecuniary damages" does not include punitive damages or pain and suffering damages.
- (10) "Plea agreement" means an agreement entered between the prosecuting attorney and the defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.
- (11) "Plea disposition" means an agreement entered into between the prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a 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.
- (12) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney 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 the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.
- (13) "Plea in abeyance agreement" means an agreement entered into between the prosecuting attorney 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.
- (14) "Restitution" means the payment of pecuniary damages to a victim.
- (15)(a) "Victim" means any person who has suffered pecuniary damages that are proximately caused by the criminal conduct of the defendant.
- (b) "Victim" includes:
- (i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes a payment to a victim under Section 63M-7-519;
- (ii) the estate of a deceased victim; and
- (iii) a parent, spouse, or sibling of a victim.

<p>(c) "Victim" does not include a codefendant or accomplice.</p> <p> These definitions apply to the Crime Victims Restitution Act, Utah Code Ann. §§ 77-38b-101 through 77-38b-402. Some of these statutory provisions are included below in the section "Select Crime Victims' Rights."</p>	
<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> <p class="list-item-l1">(a) is employed by or volunteers at a qualified institutional victim services provider;</p> <p class="list-item-l1">(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</p> <p class="list-item-l1">(c) acts under the supervision of the director or director's designee of a qualified institutional victim services provider.</p> <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> <p class="list-item-l1">(i) a certified advocate;</p> <p class="list-item-l1">(ii) a qualified institutional victim services provider;</p> <p class="list-item-l1">(iii) a person reasonably necessary for the transmission of the information;</p> <p class="list-item-l1">(iv) an individual who is present at the time the information is transmitted for the purpose of furthering the victim's interests; or</p> <p class="list-item-l1">(v) another individual, in the context of group counseling at a qualified institutional victim services provider.</p> <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> <p class="list-item-l1">(a) addresses issues involving:</p>	Utah Code Ann. § 53B-28-201.

<p>(i) sexual harassment; (ii) sexual assault; (iii) rape; (iv) domestic violence; (v) dating violence; or (vi) stalking; and</p> <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>	
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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>Victims' Rights to Lock Change and Domestic Violence Victims' Right to Termination of Rental Agreement Definitions.</p> <p>As used in this section:</p> <p>(a) "Crime victim" means a victim of:</p> <ul style="list-style-type: none">(i) domestic violence, as defined in Section 77-36-1;(ii) stalking, as defined in Section 76-5-106.5;(iii) a crime under Title 76, Chapter 5, Part 4, Sexual Offenses;(iv) burglary or aggravated burglary under Section 76-6-202 or 76-6-203; or(v) dating violence, as defined in Section 78B-7-102. <p>(b) "Public safety agency" means a governmental entity that provides fire protection, law enforcement, ambulance, medical, or similar service.</p> <p> These definitions apply to Utah Code Ann. § 57-22-5.1. This provision is included below in the section "Select Crime Victims' Rights."</p>	Utah Code Ann. § 57-22-5.1(1).
<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>(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>	Utah Code Ann. § 64-13-14.7(1).

<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>	Utah Code Ann. § 76-5-602.
<p> These definitions apply to the Sexual Assault Processing Kit Act, Utah Code Ann. §§ 76-5-601 through 76-5-610. Utah Code Ann. § 76-5-606, which governs the duties of law enforcement to provide victims with information and notice regarding sexual assault processing kits, is included below in the section "Select Crime Victims' Rights."</p>	

<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> <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>	Utah Code Ann. § 77-36-1.
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(l) violation of a protective order or ex parte protective order, as described in Section 76-5-108; (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; (n) possession of a deadly weapon with criminal intent, as described in Section 76-10-507; (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) disorderly conduct, as defined in Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication 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.; (q) child abuse, as described in Section 76-5-109.1; (r) threatening use of a dangerous weapon, as described in Section 76-10-506; (s) threatening violence, as described in Section 76-5-107; (t) tampering with a witness, as described in Section 76-8-508; (u) retaliation against a witness or victim, as described in Section 76-8-508.3; (v) unlawful distribution of an intimate image, as described in Section 76-5b-203, or unlawful distribution of a counterfeit intimate image, as described in Section 76-5b-205; (w) sexual battery, as described in Section 76-9-702.1; (x) voyeurism, as described in Section 76-9-702.7; (y) damage to or interruption of a communication device, as described in Section 76-6-108; or (z) an offense described in Subsection 78B-7-806(1). (5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801. (6) "Jail release court order" means the same as that term is defined in Section 78B-7-801. (7) "Marital status" means married and living together, divorced, separated, or not married.	
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(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 78B-7-804(3).

(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 under Sections 78B-7-802 or 78B-7-803, 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 an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(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 Cohabitation Abuse Procedures Act, Utah Code Ann. §§ 77-36-1 through 77-36-10. Some of these provisions are included below in the section "Select Crime Victims' Rights."

<p>Protective Orders and Stalking Injunctions Definitions.</p> <p>As used in this chapter:</p> <p>(1) “Abuse” means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.</p> <p>(2) “Affinity” means the same as that term is defined in Section 76-1-601.</p> <p>(3) “Civil protective order” means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:</p> <ul style="list-style-type: none">(a) Part 2, Child Protective Orders;(b) Part 4, Dating Violence Protective Orders;(c) Part 5, Sexual Violence Protective Orders; or(d) Part 6, Cohabitant Abuse Protective Orders. <p>(4) “Civil stalking injunction” means a stalking injunction issued under Part 7, Civil Stalking Injunctions.</p> <p>(5)(a) “Cohabitant” means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:</p> <ul style="list-style-type: none">(i) is or was a spouse of the other party;(ii) is or was living as if a spouse of the other party;(iii) is related by blood or marriage to the other party as the individual’s parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;(iv) has or had one or more children in common with the other party;(v) is the biological parent of the other party’s unborn child;(vi) resides or has resided in the same residence as the other party; or(vii) is or was in a consensual sexual relationship with the other party. <p>(b) “Cohabitant” does not include:</p>	Utah Code Ann. § 78B-7-102.
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(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.

(6) "Consanguinity" means the same as that term is defined in Section 76-1-601.

(7) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.

(8) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.

(9) "Court clerk" means a district court clerk.

(10)(a) "Dating partner" means an individual who:

(i)(A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7, Emancipation; or

(B) is 18 years old or older; and

(ii) is, or has been, in a dating relationship with the other party.

(b) "Dating partner" does not include an intimate partner.

(11)(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.

(b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:

(i) all relevant factors shall be considered, including:

(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
- (F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and
- (ii) it is not necessary that all, or a particular number, of the factors described in Subsection (11)(c)(i) are found to support the existence of a dating relationship.
- (12) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (13) "Ex parte civil protective order" means an order issued without notice to the respondent under:
- (a) Part 2, Child Protective Orders;
 - (b) Part 4, Dating Violence Protective Orders;
 - (c) Part 5, Sexual Violence Protective Orders; or
 - (d) Part 6, Cohabitant Abuse Protective Orders.
- (14) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to the respondent under Part 7, Civil Stalking Injunctions.
- (15) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.
- (16) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.
- (17) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.
- (18) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace Officer Classifications.

(19) “Qualifying domestic violence offense” means the same as that term is defined in Section 77-36-1.1.

(20) “Respondent” means the individual against whom enforcement of a protective order is sought.

(21) “Stalking” means the same as that term is defined in Section 76-5-106.5.



These definitions apply to the portion of Utah’s code governing protective orders and stalking injunctions, Utah Code Ann. §§ 78B-1-101 through 78B-7-904. Some of these provisions are included below in the section “Select Crime Victims’ Rights.”

Dating Violence Protection Act Definitions.

Utah Code Ann. § 78B-7-402.

As used in this part:

(1) “Dating violence protective order” means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

(2) “Ex parte dating violence protective order” means an order issued without notice to the respondent under this part.

(3) “Protective order” means:

- (a) a dating violence protective order; or
- (b) an ex parte dating violence protective order.



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 to victims when responding to allegations of dating violence, is included below in the section “Select Crime Victims’ Rights.”

Sexual Violence Protection Act Definitions.

Utah Code Ann. § 78B-7-502.

As used in this part:

- (1) “Cohabitant” means the same as that term is defined in Section 78B-7-102.
- (2) “Dating partner” means the same as that term is defined in Section 78B-7-402.
- (3) “Ex parte sexual violence protective order” means an order issued without notice to the respondent in accordance with the requirements of this part.
- (4) “Protective order” means:
 - (a) a sexual violence protective order; or
 - (b) an ex parte sexual violence protective order.
- (5) “Sexual violence” means the commission or the attempt to commit:
 - (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.
- (6) “Sexual violence protective order” means an order issued after notice and a hearing in accordance with the requirements of this part.



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 to victims when responding to allegations of sexual violence, is included below in the section “Select Crime Victims’ Rights.”

<p>Criminal Protective Orders Definitions.</p> <p>As used in this part:</p> <p>(1)(a) “Jail release agreement” means a written agreement that is entered into by an individual who is arrested or issued a citation, regardless of whether the individual is booked into jail:</p> <p>(i) under which the arrested or cited individual agrees to not engage in any of the following:</p> <p>(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;</p> <p>(B) threatening or harassing the alleged victim; or</p> <p>(C) knowingly entering onto the premises of the alleged victim’s residence or on premises temporarily occupied by the alleged victim; and</p> <p>(ii) that specifies other conditions of release from jail or arrest.</p> <p>(b) “Jail release agreement” includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section 78A-6-112.</p> <p>(2) “Jail release court order” means a written court order that:</p> <p>(a) orders an arrested or cited individual not to engage in any of the following:</p> <p>(i) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;</p> <p>(ii) threatening or harassing the alleged victim; or</p> <p>(iii) knowingly entering onto the premises of the alleged victim’s residence or on premises temporarily occupied by the alleged victim; and</p> <p>(b) specifies other conditions of release from jail.</p> <p>(3) “Minor” means the same as that term is defined in Section 78A-6-105.</p> <p>(4) “Offense against a child or vulnerable adult” means the commission or attempted commission of an offense described in Section 76-5-109, 76-5-109.1, 76-5-110, 76-5-111, or 76-9-702.1.</p>	<p>Utah Code Ann. § 78B-7-801.</p>
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<p>(5) "Qualifying offense" means:</p> <ul style="list-style-type: none">(a) domestic violence;(b) an offense against a child or vulnerable adult; or(c) the commission or attempted commission of an offense described in Section 76-9-702.1 or Title 76, Chapter 5, Part 4, Sexual Offenses. <p> These definitions apply to the section of Utah's code governing criminal protective orders, Utah Code Ann. §§ 78B-7-801 through 78B-7-807. Utah Code Ann. § 78B-7-807, which governs victim notice in the context of criminal protective orders, 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 § 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>	Utah R. Evid. 512(a).



These definitions apply to the victim advocate-victim privilege, Utah R. Evid. 512. This privilege is included below in the section “Select Crime Victims’ Rights.”



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.

SELECT CRIME VICTIMS' RIGHTS	Utah Constitutional Provisions, Statutes and Rules
<p>Constitutional Declaration of the Rights of Crime Victims.</p> <p>To preserve and protect victims' rights to justice and due process, victims of crimes have these rights, as defined by law: [listing rights].</p> <p> The Utah state constitutional rights "extend 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> The rights afforded by Utah's constitutional victims' rights provisions are included below.</p>	Utah Const. art. 1, § 28(1)(a).
<p>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>[Victims have the right] [t]o 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> Utah Code Ann. § 77-37-3(1)(a) provides victims with the right to be informed of the level of protection from intimidation and harm that is available to them and from what</p>	Utah Const. art. 1, § 28(1)(a).

sources and Utah Code Ann. § 77-37-3(1)(d) provides that victims should have a secure waiting area. These provisions are included below.



Utah Code Ann. § 77-37-4(1) provides child-victims with the right to protection from physical and emotional abuse during their involvement with the criminal justice system. This provision is included below.

Victims' Rights Regarding Important Criminal Justice Hearings: to Notice; to Presence; to Be Heard.

[Victims have the right,] [u]pon 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."



Utah Code Ann. § 77-37-3(1)(i) provides victims with the right to timely notice of judicial proceedings and the cancellation of any proceedings. Utah Code Ann. § 77-38-3 governs victims' notification rights and the notification obligations of certain entities, such as the prosecuting agency, law enforcement and courts. These 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. Utah Code Ann. § 77-38-4 and Utah Evid. R. 615 also relate to victims' right to be present. These provisions are included below.

Utah Const. art. 1, § 28(1)(b).

<p> Utah Code Ann. § 77-27-9.5 provides victims with the rights to notice, to be present and to be heard in the context of parole hearings. This provision is included below.</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 Have Judges Receive and Consider Information for Sentencing Purposes.</p> <p>[Victims have the right] [t]o 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>	Utah Const. art. 1, § 28(1)(c).
<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>Victims’ Constitutional Rights Do Not Create a Cause of Action for Money Damages or Attorney’s Fees or a Basis for Dismissing Charge or Relief from Judgment.</p> <p>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>	Utah Const. art. 1, § 28(2).
<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>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 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>	Utah Code Ann. § 77-37-1.
<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> Utah Const. art. 1, § 28(1)(a) provides victims with the right to be free from harassment</p>	Utah Code Ann. § 77-37-3(1)(a).

<p>and abuse throughout the criminal justice process. This provision is included above.</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</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 ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	Utah Code Ann. § 77-37-3(1)(b).
<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</p>	Utah Code Ann. § 77-37-3(1)(c).

<p>definitions are included above in the section “Select Definitions.”</p> <p> Utah Code Ann. § 77-38-8 guarantees victims the right to have age-appropriate language used during examinations and cross-examinations of child-victims. This provision is included below.</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>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 Const. art. 1, § 28(1)(a) provides victims with the right to be free from harassment and abuse throughout the criminal justice process. This provision is included above.</p>	Utah Code Ann. § 77-37-3(1)(d).
<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, Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710. 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>	Utah Code Ann. § 77-37-3(1)(e).

<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> The Crime Victims Restitution Act, Utah Code Ann. §§ 77-38b-101 through 77-38b-402, governs restitution determination, enforcement and collection. Some of these provisions are included below.</p> <p> A promising practice is to inform victims 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>Victims’ Right to Expeditious Return of Property.</p> <p>Victims and witnesses have a right to have any personal property returned as provided in 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>	Utah Code Ann. § 77-37-3(1)(f).

<p> If the accused files a request for return of property, victims and the prosecution must be notified immediately to ensure that they are on notice and have an opportunity to be meaningfully heard on the matter.</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 and to provide employers with this information.</p>	Utah Code Ann. § 77-37-3(1)(g).
<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>	Utah Code Ann. § 77-37-3(1)(h).

 Utah Code Ann. § 77-38-7 provides victims with the right to a speedy disposition and places obligations on the court to protect this right. This provision is included below.	
<p>Victims' Right to Notice of Proceedings and Schedule Changes; Obligation of Criminal Justice Agencies to Provide Notifications.</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> Utah Const. art. 1, § 28(1)(c) provides victims with the right, upon request, to notice of important criminal justice hearings. This provision is included above. Utah Code Ann. § 77-38-3 governs victims' notification rights and the notification obligations of certain entities, such as the prosecuting agency, law enforcement and courts. This provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to establish what constitutes "timely notice."</p>	Utah Code Ann. § 77-37-3(1)(i).
<p>Sex Offense Victims' Rights Regarding HIV and DNA Testing.</p> <p>Victims of sexual offenses have the following rights:</p> <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</p>	Utah Code Ann. § 77-37-3(1)(j).

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).

Law Enforcement's Authority to Release Certain Information Regarding a Sex Offense and to Use Various Communication Methods to Respond to Victims' Requests.

The law enforcement agency investigating a sexual offense may:

Utah Code Ann. § 77-37-3(2).

- (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.



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



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.

Law Enforcement's Authority and Responsibilities Regarding Sex Offense Investigations; Victims' Right to Notice.

The law enforcement agency investigating a sexual offense has the following authority and responsibilities:

(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.

(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.

(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior

Utah Code Ann. § 77-37-3(3).

to the destruction or disposal of the rape kit evidence or other crime scene evidence.

(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.

(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), (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."



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' Obligation to Keep Contact Information Current.

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.



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

Utah Code Ann. § 77-37-3(4).

<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> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</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>	Utah Code Ann. § 77-37-4.

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.

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

(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

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

(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.

(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.

(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:

(i) the Division of Child and Family Services;

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

(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;

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

(v) a law enforcement agency;

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

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

(b) In a criminal case or in a juvenile court in which the state is a party:

(i) the parties may display and enter into evidence a recording or transcript in the course of a prosecution;

(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; (iii) the attorney for the defendant or respondent may do one or both of the following: (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 (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 (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. (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. (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. (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: (A) the suspect is a parent or guardian of the child victim; (B) the suspect resides in the home with the child victim; or (C) the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation. (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). (iii) A Children's Justice Center shall coordinate the viewing of the recording described in this Subsection (6)(e). (f) A multidisciplinary team assembled by a Children's Justice Center or an interdisciplinary	
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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> Utah Const. art. 1, § 28(1)(a) provides victims with the right to be free from harassment and abuse throughout the criminal justice process. This provision is included above.</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p>Remedies for Victims' Rights Violations; Complaints to the District Victims' Rights Committee and Utah Council on Victims of Crime.</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 38b, 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>	Utah Code Ann. § 77-37-5.

(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.

(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.

(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.

(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).

(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.

(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.



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

Victims' Right to Notice of Important Criminal Justice Hearings; Obligations Regarding Notice of Prosecuting Agencies, Law Enforcement, Courts and Other Entities; Protected Victim Information; Pretrial No Contact Order.

(1) Within seven days after the day on which felony criminal charges are filed 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

	Utah Code Ann. § 77-38-3.
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this chapter.

(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.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (f), which the victim has requested; and

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(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 consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of 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 the prosecuting agency's 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 under 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) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.
- (10)(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 the prosecuting agency has received from a victim to the Board of Pardons and Parole.
- (11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.
- (12)(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, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under 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;
(vii) the Utah State Courts; and
(viii) the Board of Pardons and Parole.

(13) 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.

(14)(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 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.



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> Utah Const. art. 1, § 28(1)(c) provides victims with the right, upon request, to notice of important criminal justice hearings. Utah Code Ann. § 77-37-3(1)(i) provides victims with the right to timely notice of judicial proceedings and the cancellation of any proceedings. These provisions are included above.</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> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	
<p>Victims’ Rights to Be Present and Heard at Important Criminal Justice Hearings; Victims’ Right to Submit a Written Statement in Any Action on Appeal; Victims’ Right, Upon Request, to Be Present and Heard at Initial Appearance on Issues Related to Release.</p> <p>(1) The victim of a crime, the representative of the victim, or both shall have the right:</p> <p class="list-item-l1">(a) to be present at the important criminal or juvenile justice hearings provided in Subsection 77-38-2(5);</p> <p class="list-item-l1">(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 class="list-item-l1">(c) to submit a written statement in any action on appeal related to that crime; and</p> <p class="list-item-l1">(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>	Utah Code Ann. § 77-38-4.

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| (2) This chapter shall not confer any right to the victim of a crime to be heard:
(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
(b) at any delinquency trial or at any preliminary hearing in a minor's case, unless called as a witness. | |
| (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. | |
| (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. | |
| (5) The court shall have the right to limit any victim's statement to matters that are relevant to the proceeding. | |
| (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. | |
| (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. | |
| (8) If the victim of a crime is a 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, 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.”

 Utah Const. art. 1, § 28(1)(b) guarantees victims the right, upon request, to be present at important criminal justice hearings. This provision is included above. The constitutional right to be present at 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). This rule is included below.

 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.

The Rights of Crime Victims Act Applies to Felonies, Misdemeanors and Certain Juvenile Court Cases.

The provisions of this chapter shall apply to:

- (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

Utah Code Ann. § 77-38-5.

(3) to cases in the juvenile court as provided in Section 80-6-604.	
Victims' Right Not to Testify Regarding Locating Information. 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.  Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."	Utah Code Ann. § 77-38-6(1).
Victims' Right to a Speedy Disposition. (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 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. (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. (b) If a continuance is granted, the court shall enter in the record the specific reason for the	Utah Code Ann. § 77-38-7.

continuance and the procedures that have been taken to avoid further delays.	
 Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."  Utah Code Ann. § 77-37-3(1)(h) guarantees victims, particularly children, the right to a speedy disposition of the entire criminal justice process. This provision is included above.	
Victims' Right to Age-Appropriate Language at Judicial Proceedings. (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. (2)(a) The court may appoint an advisor to assist a witness 13 years of age or younger in understanding questions asked by counsel. (b) The advisor is not required to be an attorney.  Utah Code Ann. § 77-38-2 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."  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. This provision is included above.	Utah Code Ann. § 77-38-8.
Victims' Right to Designate Representative to Exercise Rights. (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,	Utah Code Ann. § 77-38-9.

including pursuing restitution.

(b) Except as otherwise provided in this section, the victim may revoke the designation at any time.

(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.

(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.

(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.

(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.

(4) The representative of a victim of a crime shall not be:

(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;

(b) a person in the custody of or under detention of federal, state, or local authorities; or

(c) a person whom the court in its discretion considers to be otherwise inappropriate.

(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.

(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.

(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

<p>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 to Be Present and Heard at Court Proceedings; 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>	Utah Code Ann. § 77-38-10.
<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>	Utah Code Ann. § 77-38-11.

- (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:
- (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.
- (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.
- (c) An appellate court shall review all properly presented issues, including issues that are capable of repetition but would otherwise evade review.
- (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.
- (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 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.

Construction of Rights of Crime Victims Act; No Right to Set Aside Conviction, Adjudication, Admission or Plea; Severability.

- (1) All of the provisions contained in this chapter shall be construed to assist the victims of crime.
- (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.
- (3) This chapter may not be construed as creating any right of a victim to appointed counsel at state expense.
- (4) All of the rights contained in this chapter shall be construed to conform to the Constitution of the United States.
- (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.
- (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.
- (6) The enumeration of certain rights for crime victims in this chapter shall not be construed to deny or disparage other rights granted by the Utah Constitution or the Legislature or retained by victims of crimes.



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

Utah Code Ann. § 77-38-12.

<p>Victims' Rights to Notice of and 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 80-6-1004 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 80-6-1004.</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>	Utah Code Ann. § 77-38-14.
<p>Confidential Communications for Sexual Assault Act: Victims' Right to Nondisclosure of Confidential Communications with Sexual Assault Counselors; Exceptions.</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>(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>	Utah Code Ann. § 77-38-204.

(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

(4) the counselor has an obligation under Title 62A, Chapter 4a, Child and Family Services, to report information transmitted in the confidential communication.



Utah Code Ann. § 77-38-203 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."



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.

Privileged Communications with Victim Advocates Act: Victims' Right to Nondisclosure of Confidential Communications with Advocates; Exceptions.

(1)(a) A victim advocate may not disclose a confidential communication with a victim, including a confidential communication in a group therapy session, except:

(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;

(ii) that a criminal justice system victim advocate may provide the confidential 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

Utah Code Ann. § 77-38-405.

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."



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>Victims Guidelines for Prosecutors Act.</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> <ul style="list-style-type: none">(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. <p>(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.</p> <p>(7)(a) Each certifying entity shall maintain records of the following information related to each request for a Form I-918 Supplement B certification:</p> <ul style="list-style-type: none">(i) the number of victims that requested Form I-918 Supplement B certifications from the	<p>Utah Code Ann. § 77-38-503.</p>
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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."



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.



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>Victims' Right to Restitution: Law Enforcement's Obligations Regarding Collection of Restitution Information.</p> <p>A law enforcement agency investigating criminal conduct that would constitute a felony or a misdemeanor shall include all information about restitution for any potential victim in the investigative report, including information about:</p> <p>(1) whether a claim for restitution exists;</p> <p>(2) the basis for the claim; and</p> <p>(3) the estimated or actual amount of the claim.</p> <p> Utah Code Ann. § 77-38b-102 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)(e) affords victims the right to seek restitution. This provision is included above.</p> <p> A promising practice is to inform victims 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>	Utah Code Ann. § 77-38b-201.
<p>Victims' Right to Restitution: Prosecutors' Obligations Regarding Collection of Restitution Information and Deposit of Restitution Collected on Behalf of Victims.</p> <p>(1) If a prosecuting attorney files a criminal charge against a defendant, the prosecuting attorney shall:</p>	Utah Code Ann. § 77-38b-202.

(a) contact any known victim of the offense for which the criminal charge is filed, or person asserting a claim for restitution on behalf of the victim; and (b) gather the following information from the victim or person: (i) the name of the victim or person; and (ii) the actual or estimated amount of restitution. (2)(a) When a conviction, a diversion agreement, or a plea in abeyance is entered by the court, the prosecuting attorney shall provide the court with the information gathered by the prosecuting attorney under Subsection (1)(b). (b) If, at the time of the plea disposition or conviction, the prosecuting attorney does not have all the information under Subsection (1)(b), the prosecuting attorney shall provide the defendant with: (i) at the time of plea disposition or conviction, all information under Subsection (1)(b) that is reasonably available to the prosecuting attorney; and (ii) any information under Subsection (1)(b) as the information becomes available to the prosecuting attorney. (c) Nothing in this section shall be construed to prevent a prosecuting attorney, a victim, or a person asserting a claim for restitution on behalf of a victim from: (i) submitting information on, or a request for, restitution to the court within the time periods described in Subsection 77-38b-205(5); or (ii) submitting information on, or a request for, restitution for additional or substituted victims within the time periods described in Subsection 77-38b-205(5). (3)(a) The prosecuting attorney may be authorized by the appropriate public treasurer to deposit restitution collected on behalf of a victim into an interest-bearing account in accordance with Title 51, Chapter 7, State Money Management Act, pending the distribution of the funds to the victim. (b) If restitution is deposited into an interest-bearing account under Subsection (3)(a), the prosecuting attorney shall: (i) distribute any interest that accrues in the account to each victim on a pro rata basis; and (ii) if all victims have been made whole and funds remain in the account, distribute any remaining funds to the Division of Finance, created in Section 63A-3-101, to deposit to the Utah Office for Victims of Crime.	
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(c) Nothing in this section prevents an independent judicial authority from collecting, holding, and distributing restitution.



Utah Code Ann. § 77-38b-102 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."



Utah Code Ann. § 77-37-3(1)(e) affords victims the right to seek restitution. This provision is included above.



A promising practice is to inform victims 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.

Victims' Right to Restitution; Presentence Investigation; Victim Impact Statement; Protection of Victim's Identity in Information Submitted to the Court.

(1) In preparing a presentence investigation report described in Section 77-18-103, the department shall obtain information on restitution from:

- (a) the law enforcement agency and the prosecuting attorney; and
- (b) any victim of the offense or person asserting a claim for restitution on behalf of the victim.

(2) A victim seeking restitution, a prosecuting attorney, or a person asserting a claim for restitution on behalf of a victim, shall provide the department with:

- (a) all invoices, bills, receipts, and any other evidence of pecuniary damages;
- (b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the pecuniary damages for the offense;
- (c) the victim's proof of identification, including the victim's date of birth, social security number, driver license number; and

Utah Code Ann. § 77-38b-203.

<p>(d) the victim's or the person's contact information, including next of kin if available, current home and work address, and telephone number.</p> <p>(3) In the presentence investigation report, the department shall make every effort to:</p> <ul style="list-style-type: none">(a) itemize any pecuniary damages suffered by the victim;(b) include a specific statement on the amount of restitution that the department recommends for each victim; and(c) include a victim impact statement that:<ul style="list-style-type: none">(i) provides the name of each victim and any person asserting a claim on behalf of a victim;(ii) describes the effect of the offense on the victim and the victim's family;(iii) describes any physical, mental, or emotional injury suffered by a victim as a result of the offense and the seriousness and permanence of the injury;(iv) describes any change in a victim's personal welfare or familial relationships as a result of the offense;(v) provides any request for mental health services by a victim or a victim's family member as a result of the offense; and(vi) provides any other relevant information regarding the impact of the offense upon a victim or the victim's family. <p>(4)(a) A prosecuting attorney and the department may take steps that are reasonably necessary to protect the identity of a victim and the victim's family in information that is submitted to the court under this section.</p> <p>(b) If a defendant seeks to view protected, safeguarded, or confidential information about a victim or a victim's family, the court shall review the information in camera.</p> <p>(c) The court may allow the defendant to view the information under Subsection (4)(b) if the court finds that:</p> <ul style="list-style-type: none">(i) the defendant's interest in viewing the information outweighs the victim's or the victim's family safety and privacy interests; and(ii) there are protections in place to safeguard the victim's and the victim's family safety and privacy interests. <p> Utah Code Ann. § 77-38b-102 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	
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<p> Utah Code Ann. § 77-37-3(1)(e) affords victims the right to seek restitution. This provision is included above.</p> <p> A promising practice is to inform victims 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>Victims' Right to Restitution: Restitution Order.</p> <p>(1)(a)(i) If a defendant is convicted, as defined in Section 76-3-201, the court shall order a defendant, as part of the sentence imposed under Section 76-3-201, to pay restitution to all victims:</p> <p>(A) in accordance with the terms of any plea agreement in the case; or</p> <p>(B) for the entire amount of pecuniary damages that are proximately caused to each victim by the criminal conduct of the defendant.</p> <p>(ii) In determining the amount of pecuniary damages under Subsection (1)(a)(i)(B), the court shall consider all relevant facts to establish an amount that fully compensates a victim for all pecuniary damages proximately caused by the criminal conduct of the defendant.</p> <p>(iii) The court shall enter the determination of the amount of restitution under Subsection (1)(a)(ii) as a finding on the record.</p> <p>(b) If a court enters a plea in abeyance or a diversion agreement for a defendant that includes an agreement to pay restitution, the court shall order the defendant to pay restitution in accordance with the terms of the plea in abeyance or the diversion agreement.</p> <p>(2)(a) Upon an order for a defendant to pay restitution under Subsection (1), the court shall:</p> <p>(i) enter an order to establish a criminal accounts receivable as described in Section 77-32b-103; and</p> <p>(ii) establish a payment schedule for the criminal accounts receivable as described in Section 77-32b-103.</p>	Utah Code Ann. § 77-38b-205.

(3) If the defendant objects to the order for restitution or the payment schedule, the court shall allow the defendant to have a hearing on the issue, unless the issue is addressed at the sentencing hearing for the defendant.

(4)(a) For a defendant who is sentenced after July 1, 2021, if no restitution is ordered at sentencing, the court shall schedule a hearing to determine restitution, unless the parties waive the hearing in accordance with Subsection (4)(b).

(b) The parties may only waive a hearing under Subsection (4)(a) if:

(i) the parties have stipulated to the amount of restitution owed; or

(ii) the prosecuting attorney certifies that the prosecuting attorney has consulted with the victim, including the Utah Office for Victims of Crime, and the defendant owes no restitution.

(c) The court may not enter an order for restitution without a statement from the prosecuting attorney that the prosecuting attorney has consulted with the victim, including the Utah Office for Victims of Crime.

(d) If the court does not enter an order for restitution in a hearing under Subsection (4)(a), the court shall:

(i) state, on the record, why the court did not enter an order for restitution; and

(ii) order a continuance of the hearing.

(5) A court shall enter an order for restitution in a defendant's case no later than the earlier of:

(a) the termination of the defendant's sentence; or

(b)(i) if the defendant is convicted and imprisoned for a first degree felony, within seven years after the day on which the court sentences the defendant for the first degree felony conviction;

(ii) except as provided in Subsection (5)(b)(i), and if the defendant is convicted of a felony, within three years after the day on which the court sentences the defendant for the felony conviction; and

(iii) if the defendant is convicted of a misdemeanor, within one year after the day on which the court sentences the defendant for the misdemeanor conviction.

(6)(a) Upon a motion from the prosecuting attorney or the victim, the court may modify an existing order of restitution, including the amount of pecuniary damages owed by the defendant in the order for restitution, if the prosecuting attorney or the victim shows good cause for modifying the order.

(b) A motion under Subsection (6)(a) shall be brought within the time periods described in Subsection (5).



Utah Code Ann. § 77-38b-102 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”



Utah Code Ann. § 77-37-3(1)(e) affords victims the right to seek restitution. This provision is included above.



A promising practice is to inform victims 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.

Confidential Communications for Institutional Advocacy Services.

Utah Code Ann. § 53B-28-202.

(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.

(2) A person may disclose a confidential communication if:

- (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];
- (c) the disclosure is required by federal law; or
- (d) a court of competent jurisdiction orders the disclosure.

<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 Lock Changes and Domestic Violence Victims’ Right to Termination of Rental Agreement.</p> <p>(1) [Definitions, included above in “Select Definitions.”]</p> <p>(2) An acceptable form of documentation of an act listed in Subsection (1) is:</p> <p>(a) a protective order protecting the renter issued pursuant to Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, subsequent to a hearing of which the petitioner and respondent have been given notice under Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or</p> <p>(b) a copy of a police report documenting an act listed in Subsection (1).</p> <p>(3)(a) A renter who is a crime victim may require the renter’s owner to install a new lock to the renter’s residential rental unit if the renter:</p> <p>(i) provides the owner with an acceptable form of documentation of an act listed in Subsection (1); and</p> <p>(ii) pays for the cost of installing the new lock.</p> <p>(b) An owner may comply with Subsection (3)(a) by:</p> <p>(i) rekeying the lock if the lock is in good working condition; or</p> <p>(ii) changing the entire locking mechanism with a locking mechanism of equal or greater quality than the lock being replaced.</p> <p>(c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the key that opens the new lock.</p>	Utah Code Ann. § 57-22-5.1.

<p>(d) Notwithstanding any rental agreement, an owner who installs a new lock under Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to the perpetrator of the act listed in Subsection (1).</p> <p>(e) Notwithstanding Section 78B-6-814, if an owner refuses to provide a copy of the key under Subsection (3)(d) to a perpetrator who is not barred from the residential rental unit by a protective order but is a renter on the rental agreement, the perpetrator may file a petition with a court of competent jurisdiction within 30 days to:</p> <ul style="list-style-type: none">(i) establish whether the perpetrator should be given a key and allowed access to the residential rental unit; or(ii) whether the perpetrator should be relieved of further liability under the rental agreement because of the owner's exclusion of the perpetrator from the residential rental unit. <p>(f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further liability under the rental agreement if the perpetrator is found by the court to have committed the act upon which the landlord's exclusion of the perpetrator is based.</p> <p>(4) A renter who is a victim of domestic violence, as defined in Section 77-36-1, may terminate a rental agreement if the renter:</p> <ul style="list-style-type: none">(a) is in compliance with:<ul style="list-style-type: none">(i) all provisions of Section 57-22-5; and(ii) all obligations under the rental agreement;(b) provides the owner:<ul style="list-style-type: none">(i) written notice of termination; and(ii) a protective order protecting the renter from a domestic violence perpetrator or a copy of a police report documenting that the renter is a victim of domestic violence and did not participate in the violence; and(c) no later than the date that the renter provides a notice of termination under Subsection (4)(b)(i), pays the owner the equivalent of 45 days' rent for the period beginning on the date that the renter provides the notice of termination. <p>(5) An owner may not:</p> <ul style="list-style-type: none">(a) impose a restriction on a renter's ability to request assistance from a public safety agency; or	
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<p>(b) penalize or evict a renter because the renter makes reasonable requests for assistance from a public safety agency.</p> <p> Utah Code Ann. § 57-22-5.1(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 to notify victims, at the first opportunity, of their housing-related rights and to provide landlords with this information.</p>	
<p>Victims' Right to Notice of an Offender's Release or Escape; Obligations of Department of Corrections Regarding Notice.</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</p>	Utah Code Ann. § 64-13-14.7.

the Board of Pardons and Parole to ensure the notice is implemented.

- (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:
- (a) to the offender under any circumstances; or
 - (b) to any other party without the written consent of the victim.

(5) The department may make rules as necessary to implement this section.

(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.



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."



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.



A defendant's release or escape may take place long after the victim's initial contact with the justice system. A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.

Sexual Assault Kit Processing Act: Law Enforcement's Obligations to Victims.

Utah Code Ann. § 76-5-606.

- (1) Collecting facility personnel who conduct sexual assault examinations shall inform each victim of a sexual assault of:

(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:

(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.

(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.

(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:

- (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.



Utah Code Ann. § 76-5-602 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."

Victims' Rights Regarding Parole Hearings: to Notice; to Presence; to Be Heard.

Utah Code Ann. § 77-27-9.5.

- (1) As used in this section, "hearing" means a hearing for a parole grant or revocation, or a rehearing of either of these if the offender is present.

<p>(2)(a) Except as provided in Subsection (2)(b), when a hearing is held regarding any offense committed by the defendant that involved the victim, the victim may attend the hearing to present his views concerning the decisions to be made regarding the defendant.</p> <p>(b)(i) The victim may not attend a redetermination or special attention hearing, if the offender is not present.</p> <p>(ii) At that redetermination or special attention hearing, the board shall give consideration to any presentation previously given by the victim regarding that offender.</p> <p>(3)(a) The notice of the hearing shall be timely sent to the victim at his most recent address of record with the board.</p> <p>(b) The notice shall include:</p> <ul style="list-style-type: none">(i) the date, time, and location of the hearing;(ii) a clear statement of the reason for the hearing, including all offenses involved;(iii) the statutes and rules applicable to the victim's participation in the hearing;(iv) the address and telephone number of an office or person the victim may contact for further explanation of the procedure regarding victim participation in the hearing; and(v) specific information about how, when, and where the victim may obtain the results of the hearing. <p>(c) If the victim is dead, or the board is otherwise unable to contact the victim, the board shall make reasonable efforts to notify the victim's immediate family of the hearing.</p> <p>(d) The victim may communicate with the board for consideration of continuance of the hearing if travel or other significant conflict prohibits their attendance at the hearing.</p> <p>(4) The victim, or family members if the victim is deceased or unable to attend due to physical incapacity, may:</p> <ul style="list-style-type: none">(a) attend the hearing to observe;(b) make a statement to the board or its appointed examiner either in person or through a representative appointed by the victim or his family; and(c) remain present for the hearing if he appoints another to make a statement on his behalf. <p>(5) The statement may be presented:</p> <ul style="list-style-type: none">(a) as a written statement, which may also be read aloud, if the presenter desires; or(b) as an oral statement presented by the person selected under Subsection (4).	
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- (6) The victim may be accompanied by a member of his family or another individual, present to provide emotional support to the victim.
- (7) The victim may, upon request, testify outside the presence of the defendant but a separate hearing may not be held for this purpose.



Utah Code Ann. § 77-37-3(1)(i) provides victims with the right to timely notice of judicial proceedings and the cancellation of any proceedings. Utah Code Ann. § 77-38-3 governs victims' notification rights and the notification obligations of certain entities, such as the prosecuting agency, law enforcement and courts. These provisions are included above.



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.

Cohabitant Abuse Procedures Act: Law Enforcement's Obligations to Victims.

Utah Code Ann. § 77-36-2.1.

- (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:
- (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).

(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 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective Orders.

(b) The written notice shall also include:

- (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 78B-7-802(8) and (9).

(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.



Utah Code Ann. § 77-36-1 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."



A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.

Cohabitan Abuse Procedures Act: Prosecutor's Obligation to Notify Victim of Decision Regarding Whether to Prosecute.

Utah Code Ann. § 77-36-7.

(1) The prosecutor who is responsible for making the decision of whether to prosecute a case shall advise the victim, if the victim has requested notification, of the status of the victim's

case and shall notify the victim of a decision within five days after the decision has been made.

(2) Notification to the victim that charges will not be filed against an alleged perpetrator shall include a description of the procedures available to the victim in that jurisdiction for initiation of criminal and other protective proceedings.



Utah Code Ann. § 77-36-1 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."

Dating Violence Protective Orders: Law Enforcements' Obligations to Victims; Victims' Right to Information Regarding Rights.

(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:

- (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).

(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.

(b) The written notice shall also include:

- (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

Utah Code Ann. § 78B-7-408.

(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.

(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.



Utah Code Ann. §§ 78B-7-102 and 78B-7-402 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”



A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.

Sexual Violence Protection Act: Law Enforcement’s Obligations to Victims; Victims’ Right to Information Regarding Rights.

(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:

(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) making arrangements for the victim and any child to obtain emergency housing or shelter;

(c) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(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).

(2)(a) A law enforcement officer shall give written notice to the victim in simple language,

Utah Code Ann. § 78B-7-509.

describing the rights and remedies available under this part.

(b) The written notice shall also include:

(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

(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.



Utah Code Ann. §§ 78B-7-102 and 78B-7-502 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."



A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.

Victims' Rights Regarding Pretrial Protective Orders: to Certified Copy of Order; to Notice of Violation; to Notification of Imminent Release.

Utah Code Ann. § 78B-7-807.

(1)(a) The court shall provide the victim with a certified copy of any pretrial protective order that has been issued if the victim can be located with reasonable effort.

(b) If the court is unable to locate the victim, the court shall provide the victim's certified copy to the prosecutor.

(c) A sentencing protective order or continuous protective order issued under this part shall be in writing, and the prosecutor shall provide a certified copy of that order to the victim.

(2)(a) Adult Probation and Parole, or another provider, shall immediately report to the court and notify the victim of any violation of any sentencing protective order issued under this part.

(b) Notification of the victim under Subsection (2)(a) shall consist of a good faith reasonable effort to provide prompt notification, including mailing a copy of the notification to the last-known address of the victim.

(3)(a) Before release of an individual who is subject to a continuous protective order issued under this part, the victim shall receive notice of the imminent release by the law enforcement agency that is releasing the individual who is subject to the continuous protective order:

- (i) if the victim has provided the law enforcement agency contact information; and
- (ii) in accordance with Section 64-13-14.7, if applicable.

(b) Before release, the law enforcement agency shall notify in writing the individual being released that a violation of the continuous protective order issued at the time of conviction or sentencing continues to apply, and that a violation of the continuous protective order is punishable as described in Section 78B-7-806.

(4) The court shall transmit a dismissal, termination, and expiration of a pretrial protective order, sentencing protective order, or a continuous protective order to the statewide domestic violence network described in Section 78B-7-113.



Utah Code Ann. §§ 78B-7-102 and 78B-7-801 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."



A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.



A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.

Victims' Rights Regarding Subpoenas Requiring Attendance or Production of Records.

(a) Subpoenas Requiring the Attendance of a Witness or Interpreter and Production or Inspection of Records, Papers, or Other Objects.

(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 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

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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 or other records.

(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.

Certain Child-Victims' Rights Regarding Out of Court Statements and Testimony.

Utah R. Crim. P. 15.5.

(a) Previously Recorded Statements. In any case concerning a charge of child abuse or of a sexual offense against a child, the oral statement of a victim or other witness younger than 14 years of age which was recorded prior to the filing of an information or indictment is, upon motion and for good cause shown, admissible as evidence in any court proceeding regarding the offense if all of the following conditions are met:

(1) the child is available to testify and to be cross-examined at trial, either in person or as provided by law, or the child is unavailable to testify at trial, but the defendant had a previous opportunity to cross-examine the child concerning the recorded statement, such that the defendant's rights of confrontation are not violated;

(2) no attorney for either party is in the child's presence when the statement is recorded;

(3) the recording is visual and aural and is recorded on film, videotape or other electronic means;

(4) the recording is accurate and has not been altered;

(5) each voice in the recording is identified;

(6) the person conducting the interview of the child in the recording is present at the

proceeding and is available to testify and be cross-examined by either party; (7) the defendant and the defendant's attorney are provided an opportunity to view the recording before it is shown to the court or jury; and (8) the court views the recording before it is shown to the jury and determines that it is sufficiently reliable and trustworthy and that the interest of justice will best be served by admission of the statement into evidence.

(b) Remote Transmission of Testimony. In a criminal case concerning a charge of child abuse or of a sexual offense against a child, the court, upon motion of a party and for good cause shown, may order that the testimony of any victim or other witness younger than 14 years of age be taken in a room other than the court room, and be televised by closed circuit equipment to be viewed by the jury in the court room. All of the following conditions shall be observed:

(1) Only the judge, attorneys for each party and the testifying child (if any), persons necessary to operate equipment, and a counselor or therapist whose presence contributes to the welfare and emotional well-being of the child may be in the room during the child's testimony. A defendant who consents to be hidden from the child's view may also be present unless the court determines that the child will suffer serious emotional or mental strain if required to testify in the defendant's presence, or that the child's testimony will be inherently unreliable if required to testify in the defendant's presence. If the court makes that determination, or if the defendant consents:

- (A) the defendant may not be present during the child's testimony;
 - (B) the court shall ensure that the child cannot hear or see the defendant;
 - (C) the court shall advise the child prior to testifying that the defendant is present at the trial and may listen to the child's testimony;
 - (D) the defendant shall be permitted to observe and hear the child's testimony, and the court shall ensure that the defendant has a means of two-way telephonic communication with the defendant's attorney during the child's testimony; and
 - (E) the conditions of a normal court proceeding shall be approximated as nearly as possible.
- (2) Only the judge and an attorney for each party may question the child.
- (3) As much as possible, persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror so the child cannot see or hear them.
- (4) If the defendant is present with the child during the child's testimony, the court may order

that persons operating the closed circuit equipment film both the child and the defendant during the child's testimony, so that the jury may view both the child and the defendant, if that may be arranged without violating other requirements of Subsection (b)(1).

(c) **Remote Recording of Testimony.** In any criminal case concerning a charge of child abuse or of a sexual offense against a child, the court may order, upon motion of a party and for good cause shown, that the testimony of any victim or other witness younger than 14 years of age be taken outside the courtroom and be recorded. That testimony is admissible as evidence, for viewing in any court proceeding regarding the charges if the provisions of Subsection (b) are observed, in addition to the following provisions:

- (1) the recording is visual and aural and recorded on film, videotape or by other electronic means;
- (2) the recording is accurate and is not altered;
- (3) each voice on the recording is identified; and
- (4) each party is given an opportunity to view the recording before it is shown in the courtroom.

(d) **Presence of Child When Recording is Used.** If the court orders that the testimony of a child be taken under Subsection (b) or (c), the child may not be required to testify in court at any proceeding where the recorded testimony is used.

Prosecutors' Obligations to Provide Victims with Information and Notice; Prosecutors' Obligations to Explain Plea Agreement to Victims; Victims' Right to Nondisclosure of Locating Information in Open Court; Scheduling Priority for Cases Involving Minors.

(a) The prosecuting agency shall inform all victims and subpoenaed witnesses of their responsibilities during the criminal proceedings.

(b) The prosecuting agency shall inform all victims and subpoenaed witnesses of their right to be free from threats, intimidation and harm by anyone seeking to induce the victim or

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witness to testify falsely, withhold testimony or information, avoid legal process, or secure the dismissal of or prevent the filing of a criminal complaint, indictment or information.

(c) If requested by the victim, the prosecuting agency shall provide notice to all victims of the date and time of scheduled hearings, trial and sentencing and of their right to be present during those proceedings and any other public hearing unless they are subpoenaed to testify as a witness and the exclusionary rule is invoked.

(d) The informational rights of victims and witnesses contained in paragraphs (a) through (c) of this rule are contingent upon their providing the prosecuting agency and court with their current telephone numbers and addresses.

(e) In cases where the victim or the victim's legal guardian so requests, the prosecutor shall explain to the victim that a plea agreement involves the dismissal or reduction of charges in exchange for a plea of guilty and identify the possible penalties which may be imposed by the court upon acceptance of the plea agreement. At the time of entry of the plea, the prosecutor shall represent to the court, either in writing or on the record, that the victim has been contacted and an explanation of the plea bargain has been provided to the victim or the victim's legal guardian prior to the court's acceptance of the plea. If the victim or the victim's legal guardian has informed the prosecutor that he or she wishes to address the court at the change of plea or sentencing hearing, the prosecutor shall so inform the court.

(f) The court shall not require victims and witnesses to state their addresses and telephone numbers in open court.

(g) Judges should give scheduling priority to those criminal cases where the victim is a minor in an effort to minimize the emotional trauma to the victim. Scheduling priorities for cases involving minor victims are subject to the scheduling priorities for criminal cases where the defendant is in custody.



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> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p>	
<p>Victim Advocate-Victim Privilege.</p> <p>(a) [Definitions, included above in "Select Definitions."]</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>	Utah R. Evid. 512.

- (2) when the confidential communication is required to be disclosed under Title 62A, Chapter 4a, Child and Family Services, or UCA § 62A-3-305;
- (3) when the confidential communication is evidence of a victim being in clear and immediate danger to the victim's self or others;
- (4) when the confidential communication is evidence that the victim has committed a crime, 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."

<p>Exclusion of Witnesses from Courtroom; Exceptions for Victims and Victims' Counselors.</p> <p>At 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:</p> <p>...</p> <p>(d) a victim in a criminal or juvenile delinquency proceeding where the prosecutor agrees with the victim's presence;</p> <p>(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; or</p> <p>...</p> <p> Utah Const. art. 1, § 28(1)(b) guarantees victims the right, upon request, to be present at important criminal justice hearings. This provision is included above. The constitutional right to be present at trial should provide for the victims' presence during the entirety of the trial.</p>	Utah R. Evid. 615(d)–(e).
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