

BOARD OF PARDONS AND PAROLE HEARING REQUIREMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Scott N. Howell

AN ACT RELATING TO BOARD OF PARDONS AND PAROLE; CLARIFYING CERTAIN VICTIM RIGHTS REGARDING PAROLE HEARINGS; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

77-27-9.5, as last amended by Chapter 13, Laws of Utah 1994

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

Section 1. Section **77-27-9.5** is amended to read:

77-27-9.5. Victim may attend hearings.

(1) ~~[(a)]~~ 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.

~~[(b) At a redetermination or special attention hearing, if the offender is not present, the victim is not permitted to be present. However, under this subsection the board shall give consideration to any presentation previously given by the victim, regarding that offender.]~~

(2) ~~[When]~~ (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.

(b) (i) The victim may not attend a redetermination or special attention hearing, if the offender is not present.

(ii) At that redetermination or special attention hearing, the board shall give consideration to any presentation previously given by the victim regarding that offender.

(3) (a) The notice of the hearing shall be timely sent to the victim at his most recent address of record with the board ~~[of Pardons and Parole]~~.

(b) The notice shall include:

~~[(a)]~~ (i) the date, time, and location of the hearing;

~~(b)~~ (ii) a clear statement of the reason for the hearing, including all offenses involved;
~~(c)~~ (iii) the statutes and rules applicable to the victim's participation in the hearing; ~~[and]~~
~~(d)~~ (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.

(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.

(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.

(4) The victim, or family members if the victim is deceased or unable to attend due to physical incapacity, may:

(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.

(5) The statement may be presented:

(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).

(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.