

VICTIM REPRESENTATION AT AN EXECUTION

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: D. Edgar Allen

AN ACT RELATING TO CRIMINAL PROCEDURE AND VICTIMS' RIGHTS; PROVIDING FOR THE ATTENDANCE OF RELATIVES OR REPRESENTATIVES OF THE VICTIM AT THE EXECUTION OF THE OFFENDER; AND AMENDING PROVISIONS REGARDING ATTENDANCE OF THE PRESS.

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

AMENDS:

77-19-11, as last amended by Chapter 113, Laws of Utah 1996

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

Section 1. Section **77-19-11** is amended to read:

77-19-11. Who may be present -- Photographic and recording equipment.

(1) As used in this section:

(a) "Close relative of the deceased victim" means:

(i) the spouse of the victim;

(ii) a parent or stepparent of the victim;

(iii) a brother, sister, stepbrother, stepsister, child, or stepchild of the victim; and

(iv) any person who had a close relationship with the deceased victim, or with a close relative of the victim, upon the recommendation of the victim assistance coordinator for the Department of Corrections or for the Office of the Attorney General.

(b) "Director" means the executive director of the Department of Corrections, or the director's designee.

~~[(1)]~~ (2) At the discretion of the ~~[executive]~~ director ~~[of the Department of Corrections or his designee]~~, the following persons may attend the execution:

(a) the prosecuting attorney, or ~~[his]~~ a designated deputy, of the county in which the defendant committed the offense for which he is being executed;

(b) no more than two law enforcement officials from the county in which the defendant

committed the offense for which he is being executed;

(c) the attorney general or ~~[his designated deputy]~~ a designee; ~~[and]~~

(d) religious representatives, friends, or relatives designated by the defendant, not exceeding a total of five persons~~[-]; and~~

(e) unless approved by the director, no more than five close relatives of the deceased victim, as selected by the director, but giving priority in the order listed in Subsection (1)(a).

~~[(2)]~~ (3) The persons ~~[enumerated]~~ listed in Subsection (2) may not be required to attend, nor may any of them attend as a matter of right.

~~[(3)]~~ (4) The ~~[executive]~~ director ~~[of the department or his designee]~~ shall permit the attendance at the execution of ~~[a total of nine]~~ members of the press and broadcast news media;

(a) as named by the [executive] director [of the department] in accordance with rules of the department[-; provided that]; and

(b) with the agreement of the selected news media members that they serve as a pool for other members of the news media [as a condition of attendance].

~~[(4)]~~ (5) (a) ~~[Photographic]~~ Except as provided in Subsection (5)(b), photographic or recording equipment is not permitted at the execution site until the execution is completed, the body is removed, and the site has been restored to an orderly condition. However, the physical arrangements for the execution may not be disturbed.

(b) Audio recording equipment may be used by the department for the purpose of recording the defendant's last words.

(c) The department shall permanently destroy the recording made under Subsection (5)(b) not later than 24 hours after the completion of the execution.

~~[(b)]~~ (d) A violation of this subsection is a class B misdemeanor.

~~[(5)]~~ (6) All persons in attendance are subject to reasonable search as a condition of attendance.

~~[(6)]~~ (7) (a) The following persons may also attend the execution:

(i) staff as determined ~~[necessary for the execution]~~ by the ~~[executive]~~ director ~~[of the department or his designee]; and~~

(ii) no more than three correctional officials from other states that are preparing for executions, but no more than two correctional officials may be from any one state, as designated by the ~~[executive]~~ director ~~[of the department or his designee]~~.

(b) ~~[Any]~~ A person younger than 18 years of age may not attend.

~~[(7)]~~ (8) The department shall adopt rules governing the attendance of persons, including the number of media representatives, at the execution. These rules shall be in accordance with this section.