

Part 1 General Provisions

77-38-2 Definitions.

For the purposes of this chapter and the Utah Constitution:

- (1) "Abuse" means treating the crime victim in a manner so as to injure, damage, or 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;
 - (g) a hearing regarding any criminal protective order described in Title 78B, Chapter 7, Part 8, Criminal Protective Orders; and
 - (h) 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)(h) 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.

Amended by Chapter 426, 2023 General Session

77-38-4 Right to be present, to be heard, and to file an amicus brief on appeal -- Control of disruptive acts or irrelevant statements -- Statements from persons in custody.

- (1) The victim of a crime, the representative of the victim, or both shall have the right:
 - (a) to be present at the important criminal or juvenile justice hearings provided in Subsection 77-38-2(5);
 - (b) to be heard at the important criminal or juvenile justice hearings provided in Subsections 77-38-2(5)(b), (c), (d), (f), (g), and (h);
 - (c) to submit a written statement in any action on appeal related to that crime; and
 - (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.
- (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.

Amended by Chapter 426, 2023 General Session

77-38-5 Application to felonies and misdemeanors of the declaration of the rights of crime victims.

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
- (3) to cases in the juvenile court as provided in Section 80-6-604.

Amended by Chapter 262, 2021 General Session

77-38-7 Victim's right to a speedy trial.

- (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 continuance and the procedures that have been taken to avoid further delays.

Amended by Chapter 352, 1995 General Session

77-38-8 Age-appropriate language at judicial proceedings -- Advisor.

- (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.

Amended by Chapter 352, 1995 General Session

77-38-9 Representative of victim -- Court designation -- Representation in cases involving minors -- Photographs in homicide cases.

- (1)
 - (a) A victim of a crime may designate, with the approval of the court, a representative who may exercise the same rights that the victim is entitled to exercise under this chapter, including pursuing restitution.
 - (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 victim, and for other relevant purposes.

Amended by Chapter 244, 2014 General Session

77-38-10 Victim's discretion.

- (1)
 - (a) The victim may exercise any rights under this chapter at the victim's discretion to be present and to be heard at a court proceeding, including a juvenile delinquency proceeding.
 - (b) The absence of the victim at the court proceeding does not preclude the court from conducting the proceeding.
- (2) A victim shall not refuse to comply with an otherwise lawful subpoena under this chapter.
- (3) A victim shall not prevent the prosecution from complying with requests for information within a prosecutor's possession and control under this chapter.

Amended by Chapter 302, 2025 General Session

Superseded 7/1/2026

77-38-11 Enforcement -- Appellate review -- No right to money damages.

- (1) If a person acting under color of state law allegedly violates the rights of a victim described in this chapter, Chapter 37, Victims' Rights, or Utah Constitution, Article I, Section 28, the victim, or a representative of a victim, may file a complaint with a victim rights committee as described in Section 63M-7-1003.
- (2) 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.

- (3)
 - (a) The victim of a crime or representative of a victim of a crime 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 court assigned to the case involving the issue.
 - (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.
- (4)
 - (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 court shall determine whether a right of the victim has been violated.
 - (b) If the court determines that a victim's right has been violated, the court shall:
 - (i) determine the appropriate remedy for the violation of the victim's right by hearing from the victim and the parties and considering all factors relevant to the issue; and
 - (ii) award an appropriate remedy to the victim.
- (5)
 - (a) The court shall:
 - (i) reconsider any judicial decision or judgment affected by a violation of the victim's right; and
 - (ii) upon affording the victim the right and further hearing from the prosecution and the defense, determine whether the decision or judgment would have been different.
 - (b) 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.
 - (c) If necessary to protect the victim's right, the court shall enter the new decision or judgment nunc pro tunc to the time the first decision or judgment was reached.
 - (d) In no event shall the appropriate remedy be a new trial, damages, attorney fees, or costs.
- (6)
 - (a) The appropriate remedy under Subsection (4) or (5) shall include only actions necessary to provide the victim the right to which the victim was entitled.
 - (b) The appropriate remedy under Subsection (4) or (5) may include reopening previously held proceedings.
- (7)
 - (a) Subject to Subsection (7)(c), the court may reopen a sentence or a previously entered guilty or no contest plea only if reopening the sentence or plea:
 - (i) would not preclude continued prosecution or sentencing the defendant; and
 - (ii) would not otherwise permit the defendant to escape justice.
 - (b) The court shall tailor a remedy to provide the victim with an appropriate remedy without violating any constitutional right of the defendant.
 - (c) If the court sets aside a previously entered plea of guilty or no contest, and the 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 the plea's original entry.

- (d) The court may not award as a remedy the dismissal of any criminal charge.
- (e) The court may not award any remedy if the proceeding that the victim is challenging occurred more than 90 days before the day on which the victim filed an action alleging the violation of the right.
- (8) The failure to provide the rights in this chapter or 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.
- (9) A defendant convicted of an offense may not bring an action or complaint concerning a violation of this chapter or Chapter 37, Victims' Rights.

Amended by Chapter 160, 2024 General Session

Effective 7/1/2026

77-38-11 Enforcement -- Appellate review -- No right to money damages.

- (1) If a person acting under color of state law allegedly violates the rights of a victim described in this chapter, Chapter 37, Victims' Rights, or Utah Constitution, Article I, Section 28, the victim, or a representative of a victim, may file a complaint with a victim rights committee as described in Section 75E-6-304.
- (2) If an individual 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.
- (3)
 - (a) The victim of a crime or representative of a victim of a crime 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 court assigned to the case involving the issue.
 - (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.
- (4)
 - (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 court shall determine whether a right of the victim has been violated.
 - (b) If the court determines that a victim's right has been violated, the court shall:
 - (i) determine the appropriate remedy for the violation of the victim's right by hearing from the victim and the parties and considering all factors relevant to the issue; and
 - (ii) award an appropriate remedy to the victim.
- (5)
 - (a) The court shall:

- (i) reconsider any judicial decision or judgment affected by a violation of the victim's right; and
 - (ii) upon affording the victim the right and further hearing from the prosecution and the defense, determine whether the decision or judgment would have been different.
 - (b) 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.
 - (c) If necessary to protect the victim's right, the court shall enter the new decision or judgment nunc pro tunc to the time the first decision or judgment was reached.
 - (d) In no event shall the appropriate remedy be a new trial, damages, attorney fees, or costs.
- (6)
- (a) The appropriate remedy under Subsection (4) or (5) shall include only actions necessary to provide the victim the right to which the victim was entitled.
 - (b) The appropriate remedy under Subsection (4) or (5) may include reopening previously held proceedings.
- (7)
- (a) Subject to Subsection (7)(c), the court may reopen a sentence or a previously entered guilty or no contest plea only if reopening the sentence or plea:
 - (i) would not preclude continued prosecution or sentencing the defendant; and
 - (ii) would not otherwise permit the defendant to escape justice.
 - (b) The court shall tailor a remedy to provide the victim with an appropriate remedy without violating any constitutional right of the defendant.
 - (c) If the court sets aside a previously entered plea of guilty or no contest, and the 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 the plea's original entry.
 - (d) The court may not award as a remedy the dismissal of any criminal charge.
 - (e) The court may not award any remedy if the proceeding that the victim is challenging occurred more than 90 days before the day on which the victim filed an action alleging the violation of the right.
- (8) The failure to provide the rights in this chapter or 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.
- (9) A defendant convicted of an offense may not bring an action or complaint concerning a violation of this chapter or Chapter 37, Victims' Rights.

Amended by Chapter 291, 2026 General Session

77-38-12 Construction of this chapter -- No right to set aside conviction, adjudication, admission, or plea -- Severability clause.

- (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.

Amended by Chapter 120, 2009 General Session

77-38-13 Declaration of legislative authority.

It is the view of the Legislature that the provisions of this chapter, and other provisions enacted simultaneously with it, are substantive provisions within inherent legislative authority. In the event that any of the provisions of this chapter, and other provisions enacted simultaneously with it, are interpreted to be procedural in nature, the Legislature also intends to invoke its powers to modify procedural rules under the Utah Constitution.

Enacted by Chapter 198, 1994 General Session

77-38-14 Notice of expungement petition -- Victim's right to object.

- (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 77-40a-305 or 80-6-1004.1 and the procedures for obtaining notice of the petition.
 - (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.
- (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 77-40a-305 and 80-6-1004.1.

Amended by Chapter 115, 2023 General Session