Effective 5/3/2023

Chapter 38
Crime Victims

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

77-38-3 Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal 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 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 (g) 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 (g), 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, described in Subsections 77-38-2(5)(a) through (g) 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 (g) 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 (g) 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)(h).
(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 (g) 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 and Youth 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 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 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.
(15)
(a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that possibility as soon as practicable.
(b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.

Amended by Chapter 240, 2024 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

77-38-6 Victim's right to privacy.

(1) 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.

(2) A defendant may not compel any witness to a crime, at any court proceeding, including any juvenile court proceeding, to testify regarding the witness's address, telephone number, place of employment, or other locating information unless the witness specifically consents or the court orders disclosure on finding that a compelling need for the information exists. A court proceeding on whether to order disclosure shall be in camera.

Amended by Chapter 16, 2023 General Session
Amended by Chapter 237, 2023 General Session
Amended by Chapter 352, 1995 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 his 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 352, 1995 General Session

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 partiesand 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

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

Part 2
Confidential Communications for Sexual Assault Act

77-38-201 Title.

This part is known and cited as the "Confidential Communications for Sexual Assault Act."

Renumbered and Amended by Chapter 3, 2008 General Session

77-38-202 Purpose.

It is the purpose of this act 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.

Renumbered and Amended by Chapter 3, 2008 General Session

77-38-203 Definitions.

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)

(a) "Rape crisis and services center" means a nonprofit entity that assists victims of sexual assault and victims' families by offering sexual assault crisis intervention and counseling through a sexual assault counselor.

(b) "Rape crisis and services center" does not include a qualified institutional victim services provider as defined in Section 53B-28-201.

(3) "Sexual assault counselor" means an individual who:

(a) is employed by or volunteers at a rape crisis and services center;

(b) has a minimum of 40 hours of training in counseling and assisting victims of sexual assault; and

(c) is under the supervision of the director or designee of a rape crisis and services center.

(4) "Victim" means an individual 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.

Amended by Chapter 99, 2023 General Session

77-38-204 Disclosure of confidential communications.

The confidential communication between a victim and a sexual assault counselor is available to a third person only when:

(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;

(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;

(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 80, Chapter 2, Child Welfare Services, or Title 80, Chapter 2a, Removal and Protective Custody of a Child, to report information transmitted in the confidential communication.

Amended by Chapter 99, 2023 General Session

Part 3
Profits from Notorious Criminal Activity Act

77-38-301 Title.

This part is known as the "Profits from Notorious Criminal Activity Act."

Amended by Chapter 260, 2012 General Session

77-38-302 Definitions.

As used in this part:

(1) "Convicted person" means a person who has been convicted of a crime.

(2) "Conviction" means an adjudication by a federal or state court resulting from a trial or plea, including a plea of no contest, nolo contendere, a finding of not guilty due to insanity, or not guilty but having a mental condition regardless of whether the sentence was imposed or suspended.

(3) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(4) "Memorabilia" means any tangible property of a convicted person or a representative or assignee of a convicted person, the value of which is enhanced by the notoriety gained from the criminal activity for which the person was convicted.

(5) "Notoriety of crimes contract" means a contract or other agreement with a convicted person, or a representative or assignee of a convicted person, with respect to:

(a) the reenactment of a crime in any manner including a movie, book, magazine article, Internet website, recording, phonograph record, radio or television presentation, or live entertainment of any kind;

(b) the expression of the convicted person's thoughts, feelings, opinions, or emotions regarding a crime involving or causing personal injury, death, or property loss as a direct result of the crime; or

(c) the payment or exchange of any money or other consideration or the proceeds or profits that directly or indirectly result from the notoriety of the crime.

(6) "Office" means the Utah Office for Victims of Crime.

(7) "Profit" means any income or benefit:

(a) over and above the fair market value of tangible property that is received upon the sale or transfer of memorabilia; or

(b) any money, negotiable instruments, securities, or other consideration received or contracted for gain which is traceable to a notoriety of crimes contract.

Amended by Chapter 184, 2023 General Session

77-38-303 Profit from sale of memorabilia or notoriety of crimes contract -- Deposit in Crime Victim Reparations Fund -- Penalty.

(1) Any convicted person or a representative or assignee of a convicted person who receives a profit from the sale or transfer of memorabilia shall remit to the fund:

(a) a complete, itemized accounting of the transaction, including:

(i) a description of each item sold;

(ii) the amount received for each item;

(iii) the estimated fair market value of each item; and

(iv) the name and address of the purchaser of each item; and

(b) a check or money order for the amount of the profit, which shall be the difference between the amount received for the item and the estimated fair market value of the item.

(2) Any person who willfully violates Subsection (1) may be assessed a civil penalty of up to $1,000 per item sold or transferred or three times the amount of the unremitted profit, whichever is greater.

(3)

(a) Any person or entity who enters into a notoriety of crime contract with a convicted person or with a representative or assignee of a convicted person shall pay to the fund any profit which by the terms of the contract would otherwise be owing to the convicted person or representative or assignee of the convicted person.

(b) A convicted person or a representative or assignee of a convicted person who has received any profit from a notoriety of crime contract shall remit the profit to the fund. Any future profit which, by the terms of the contract, would otherwise be owing to the convicted person or a representative or assignee of a convicted person shall be paid to the fund as required under Subsection (3)(a).

(4) Upon receipt of money under Subsection (3), the office shall distribute the amounts to the victim of the crime from which the profits are derived if any restitution remains outstanding. If no restitution is outstanding, the money shall be deposited into the fund.

(5)

(a) Any person or entity who willfully violates Subsection (3) may be assessed a civil penalty of up to $1,000,000.00, or up to three times the total value of the original notoriety of crime contract, whichever is greater.

(b) Any civil penalty ordered under this Subsection shall be paid to the fund.

(6) The prosecuting agency or the attorney general may bring an action to enforce the provisions of this chapter in the court of conviction.

(7) A court shall enter an order to remit funds as provided in this chapter if it finds by a preponderance of the evidence any violation of Subsection (1) or (3).

Amended by Chapter 278, 2013 General Session

Part 4
Privileged Communications with Victim Advocates Act

77-38-401 Title.

This part is known as the "Privileged Communications with Victim Advocates Act."

Enacted by Chapter 361, 2019 General Session

77-38-402 Purpose.

It is the purpose of this part 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.

Enacted by Chapter 361, 2019 General Session

77-38-403 Definitions.

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.

Amended by Chapter 142, 2020 General Session

77-38-404 Scope of part.

This part governs the disclosure of a confidential communication to a victim advocate, except that:

(1) if Title 53B, Chapter 28, Part 2, Confidential Communications for Institutional Advocacy Services Act, applies, that part governs; and

(2) if Part 2, Confidential Communications for Sexual Assault Act, applies, that part governs.

Enacted by Chapter 361, 2019 General Session

77-38-405 Disclosure of a communication given to a victim advocate.

(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 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.

Enacted by Chapter 361, 2019 General Session

Part 5
Victims Guidelines for Prosecutors Act

77-38-501 Title.

This part is known as the "Victims Guidelines for Prosecutors Act."

Enacted by Chapter 112, 2020 General Session

77-38-502 Definitions.

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 described 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:
  - (i) the Division of Child and Family Services; and
  - (ii) the Labor Commission.

(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.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(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.

Amended by Chapter 394, 2023 General Session

77-38-503 Guidelines for prosecutors.

(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.

(2) A certifying entity shall determine helpfulness as described in Subsection (1) in a manner consistent with federal guidelines.

(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.

(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.

(5) A certifying official may withdraw a Form I-918 Supplement B certification if:

(a) the victim refuses to provide information and assistance when reasonably requested; or

(b) the certifying entity determines that the individual is not a victim of a qualifying criminal activity.

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

(7)

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

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

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

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

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

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

(8)

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

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

(ii) the certifying agency has written authorization from:

(A) the victim; or

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

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

Enacted by Chapter 112, 2020 General Session

Part 6
Safe at Home Program

77-38-601 Definitions.

As used in this part:

(1) "Abuse" means any of the following:

(a) "abuse" as that term is defined in Section 76-5-111 or 80-1-102; or
(b) "child abuse" as that term is defined in Section 76-5-109.
(2) "Actual address" means the residential street address of the program participant that is stated in a program participant's application for enrollment or on a notice of a change of address under Section 77-38-610.
(3) "Assailant" means an individual who commits or threatens to commit abuse, human trafficking, domestic violence, stalking, or a sexual offense against an applicant for the program or a minor or incapacitated individual residing with an applicant for the program.
(4) "Assigned address" means an address designated by the commission and assigned to a program participant.
(5) "Authorization card" means a card issued by the commission that identifies a program participant as enrolled in the program with the program participant's assigned address and the date on which the program participant will no longer be enrolled in the program.
(6) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
(7) "Domestic violence" means the same as that term is defined in Section 77-36-1.
(8) "Human trafficking" means a human trafficking offense under Section 76-5-308.
(9) "Incapacitated individual" means an individual who is incapacitated, as defined in Section 75-1-201.
(10)
(a) "Mail" means first class letters or flats delivered by the United States Postal Service, including priority, express, and certified mail.
(b) "Mail" does not include a package, parcel, periodical, or catalogue, unless the package, parcel, periodical, or catalogue is clearly identifiable as:
(i) being sent by a federal, state, or local agency or another government entity; or
(ii) a pharmaceutical or medical item.
(11) "Minor" means an individual who is younger than 18 years old.
(12) "Notification form" means a form issued by the commission that a program participant may send to a person demonstrating that the program participant is enrolled in the program.
(13) "Program" means the Safe at Home Program created in Section 77-38-602.
(14) "Program assistant" means an individual designated by the commission under Section 77-38-604 to assist an applicant or program participant.
(15) "Program participant" means an individual who is enrolled under Section 77-38-606 by the commission to participate in the program.
(16) "Record" means the same as that term is defined in Section 63G-2-103.
(17) "Sexual offense" means:
(a) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or
(b) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual Exploitation.
(18) "Stalking" means the same as that term is defined in Section 76-5-106.5.
(19) "State or local government entity" means a county, municipality, higher education institution, special district, special service district, or any other political subdivision of the state or an administrative subunit of the executive, legislative, or judicial branch of this state, including:
(a) a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission; or
(b) an individual acting or purporting to act for or on behalf of a state or local entity, including an elected or appointed public official.
(20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or sexual assault.

Amended by Chapter 16, 2023 General Session
Amended by Chapter 237, 2023 General Session

77-38-602 Creation -- Commission responsibilities.

(1) There is created the Safe at Home Program within the commission.
(2) Under the program, the commission shall:
  (a) designate, train, and manage program assistants;
  (b) develop, distribute, and process application forms and related materials for the program;
  (c) designate an assigned address for a program participant to be used by the program participant and a state or local government entity; and
  (d) receive mail sent to a program participant's assigned address, forward the mail to the program participant's actual address at the commission's expense, and track and maintain records for all mail received.

Amended by Chapter 237, 2023 General Session

77-38-603 Eligibility.

(1) An applicant is eligible to participate in the program if the applicant attests that the applicant:
  (a) is a resident of this state;
  (b)
    (i) is a victim;
    (ii) is a parent or a guardian of an individual who:
      (A) is a victim; and
      (B) resides at the same address as the parent or guardian;
    (iii) resides at the same address where a victim resides; or
    (iv) fears for the applicant's physical safety, or for the physical safety of a minor or incapacitated individual residing at the same address as the applicant, from a threat of abuse, domestic violence, human trafficking, stalking, or sexual assault;
  (c)
    (i) resided at a residential address that was known by an assailant and relocated within the past 90 days to a different residential address that is not known by the assailant;
    (ii) resides at a residential address known by the assailant and intends to relocate within 90 days to a different residential address in the state that is not known by the assailant; or
    (iii) resides at a residential address that is not known by the assailant;
  (d) will not disclose the different residential address to the assailant; and
  (e) will benefit from participation in the program.
(2) An applicant may participate in the program regardless of whether:
  (a) a criminal charge is filed against an assailant;
  (b) the applicant has a restraining order or injunction against an assailant; or
  (c) the applicant reported an act or threat by an assailant to a law enforcement agency or officer.
(3) An applicant may participate in the program only upon the recommendation of a program assistant.
(4) To participate in the program:
  (a) an applicant shall sign, date, and verify the information on an application; and
  (b) the commission shall verify the applicant's current residential address as provided on the application.

(5) A parent or guardian may act on behalf of a minor or an incapacitated individual in determining whether the minor or the incapacitated individual is eligible for the program.

Enacted by Chapter 215, 2022 General Session

77-38-604 Designation of program assistants.

(1) The commission may designate as a program assistant, an individual that:
  (a)
    (i) is an employee of the commission or a state or local government entity; or
    (ii) is a volunteer for an organization that provides counseling, assistance, or support services at no charge to victims; and
  (b)
    (i) provides counseling, referrals, or other services to victims; and
    (ii) completes any training or registration process required by the commission.
(2) A program assistant shall:
  (a) assist an applicant in preparing an application for the program; and
  (b) sign, date, and verify an application for the program.
(3) A signature of a program assistant is a recommendation by the program assistant that the applicant is eligible to participate in the program under Section 77-38-603.

Enacted by Chapter 215, 2022 General Session

77-38-605 Administration -- Application.

(1) The commission shall provide an application form to an applicant who seeks to participate in the program under this part.
(2) The commission may not charge an applicant or program participant for an application or participation fee to apply for, or participate in, the program.
(3) The application shall include:
  (a) the applicant's name;
  (b) a mailing address, a phone number, and an email address where the applicant may be contacted by the commission;
  (c) an indication regarding whether the assailant is employed by a state or local government entity, and if applicable, the name of the state or local government entity;
  (d) a statement that the applicant understands and consents to:
    (i) remain enrolled in the program for four years, unless the applicant's participation in the program is cancelled under Section 77-38-617;
    (ii) while the applicant is enrolled in the program, notify the commission when the applicant changes the applicant's actual address or legal name;
    (iii) develop a safety plan with a program assistant;
    (iv) authorize the commission to notify a state or local government entity that the applicant is a program participant;
    (v) submit written notice to the commission if the applicant chooses to cancel the applicant's participation in the program;
    (vi) register to vote in person at the office of the clerk in the county where the applicant's actual address is located; and
    (vii) certify that the commission is the applicant's designated agent for service of process for personal service;

(e) evidence that the applicant, or a minor or an incapacitated individual residing with the applicant, is a victim, including:
(i) a law enforcement, court, or other state, local, or federal government agency record; or
(ii) a document from:
(A) a domestic violence program, facility, or shelter;
(B) a sexual assault program; or
(C) a religious, medical, or other professional from whom the applicant, or the minor or the incapacitated individual residing with the applicant, sought assistance in dealing with alleged abuse, domestic violence, stalking, or a sexual offense;
(f) a statement from the applicant that a disclosure of the applicant's actual address would endanger the applicant, or a minor or an incapacitated individual residing with the applicant;
(g) a statement by the applicant that the applicant:
(i) resides at a residential address that is not known by the assailant;
(ii) has relocated to a different residential address in the past 90 days that is not known by the assailant; or
(iii) will relocate to a different residential address in the state within 90 days that is not known by the assailant;
(h) the actual address that:
(i) the applicant requests that the commission not disclose; and
(ii) is at risk of discovery by the assailant or potential assailant;
(i) a statement by the applicant disclosing:
(i) the existence of a court order or action involving the applicant, or a minor or an incapacitated individual residing with the applicant, related to a divorce proceeding, a child support order or judgment, or the allocation of custody or parent-time; and
(ii) the court that issued the order or has jurisdiction over the action;
(j) the name of any other individual who resides with the applicant who needs to be a program participant to ensure the safety of the applicant, or a minor or an incapacitated individual residing with the applicant;
(k) a statement by the applicant that:
(i) the applicant, or a minor or an incapacitated individual residing at the same address as the applicant, will benefit from participation in the program;
(ii) if the applicant intends to vote, the applicant will register to vote at the office of the clerk in the county in which the applicant actually resides; and
(iii) the applicant does not have a current obligation to register as a sex offender, kidnap offender, or child abuse offender under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry;
(l) a statement by the applicant, under penalty of perjury, that the information contained in the application is true;
(m) a statement that:
(i) if the applicant intends to use the assigned address for any correspondence with the State Tax Commission, the applicant must provide the State Tax Commission with the applicant's social security number, federal employee identification number, and any other identification number related to a tax, fee, charge, or license administered by the State Tax Commission; and
(ii) if the applicant intends to use the assigned address for correspondence to a state or local government entity for the purpose of titling or registering a motor vehicle or a watercraft that is owned or leased by the applicant, the applicant shall provide to the state or local government entity for each motor vehicle or watercraft:

(A) the motor vehicle or hull identification number;
(B) the license plate or registration number for the motor vehicle or the watercraft; and
(C) the physical address where each motor vehicle or watercraft is stored; and
(n) a statement that any assistance or counseling provided by a program assistant as part of the program does not constitute legal advice or legal services to the applicant.

Amended by Chapter 234, 2024 General Session

77-38-606 Enrollment of a program participant.

(1)
(a) Within five business days after the day on which the commission grants enrollment to a program participant, the commission shall issue the program participant:
(i) an assigned address;
(ii) an authorization card; and
(iii) a notification form.
(b) An authorization card is valid while the program participant is enrolled in the program.
(2) A program participant is enrolled in the program for four years beginning on the day on which the enrollment is granted, unless the enrollment is withdrawn, or is cancelled under Section 77-38-617, before the end of the four-year period.
(3) A program participant may withdraw from the program by filing a request for withdrawal with the commission that is acknowledged before a notary public.
(4)
(a) A program participant may renew enrollment by filing a renewal application with the commission at least 30 days before the day on which enrollment in the program will expire.
(b) The applicant shall date, sign, and verify the renewal application.
(c) The renewal application shall contain:
(i) all statements or information required by Subsection 77-38-605(3) that have changed from the original application or a prior renewal application;
(ii) a statement by the applicant that the applicant, or a minor or an incapacitated individual residing at the same address as the applicant, will continue to benefit from participation in the program; and
(iii) a statement by the applicant, under penalty of perjury, that the information contained in the renewal application is true.

Enacted by Chapter 215, 2022 General Session

77-38-607 Use of assigned address -- Release of information.

(1) The commission shall forward all mail that the office receives at the assigned address for a program participant to the program participant's actual address.
(2) The commission shall provide, at the request of a program participant or a state or local government entity, confirmation of an individual's status as a program participant.
(3) Except as provided in Sections 77-38-611, 77-38-612, and 77-38-613, the commission may not disclose a program participant's actual address to any person.

Amended by Chapter 237, 2023 General Session

77-38-608 Use of assigned address -- Confidentiality.

(1) A program participant may use the assigned address provided to the program participant to receive mail as provided in Subsection 77-38-602(2).
(2)
(a) A state or local government entity may not refuse to use a program participant's assigned address for any official business, unless:
(i) the state or local government entity is statutorily required to use the program participant's actual address; or
(ii) the state or local government entity is permitted or required to use the program participant's actual address under this part.
(b) A state or local government entity may confirm an individual's status as a program participant with the commission.
(3) A state or local government entity, after receiving a copy of the notification form from a program participant or a notification of the program participant's enrollment from the commission, may not:
(a) except as provided in Subsection (2)(a), refuse to use the assigned address for the program participant, or a minor or an incapacitated individual residing with the program participant;
(b) except as provided in Subsection (4), require a program participant to disclose the program participant's actual address; or
(c) except as provided in Section 77-38-611, intentionally disclose to another person or state or local government entity the program participant's actual address.
(4) Notwithstanding Subsections (2) and (3), a county clerk may require a program participant to disclose the program participant's actual address:
(a) for voter registration; and
(b) to enroll a program participant in a program designed to protect the confidentiality of a voter's address.
(5) If a program participant is enrolled in a program designed to protect the confidentiality of a voter's address, a county clerk:
(a) shall classify the program participant's actual address as concealed; and
(b) may not disclose the program participant's actual address.

Amended by Chapter 237, 2023 General Session

77-38-609 Disclosure of actual address prohibited.
(1)
(a) The commission may not disclose a program participant's actual address, unless:
(i) required by a court order; or
(ii) the commission grants a request from a state or local government entity under Section 77-38-612.
(b) The commission shall provide a program participant immediate notification of a disclosure of the program participant's actual address if the disclosure is made under Subsection (1)(a)(i) or (ii).
(2) If, at the time of application, an applicant, or a parent or guardian of an applicant, is subject to a court order relating to a divorce proceeding, a child support order or judgment, or an allocation of custody or parent-time, the commission shall provide notice of whether the applicant is enrolled under the program and the assigned address of the applicant to the court that issued the order or has jurisdiction over the action.

(3) A person may not knowingly or intentionally obtain a program participant's actual address from the commission or any state or local government entity if the person is not authorized to obtain the program participant's actual address.
(4) Unless the disclosure is permitted under this part or is otherwise permitted by law, an employee of the commission or a state or local government entity may not knowingly or intentionally disclose a program participant's actual address if:
  (a) the employee obtains a program participant's actual address during the course of the employee's official duties; and
  (b) at the time of disclosure, the employee has specific knowledge that the address is the actual address of the program participant.
(5) A person who intentionally or knowingly obtains or discloses information in violation of this part is guilty of a class B misdemeanor.

Amended by Chapter 237, 2023 General Session

77-38-610 Change of name, address, or telephone number.
(1) A program participant shall notify the commission no later than 30 days after the day on which the program participant obtains a legal name change, by providing the commission with a certified copy of a judgment or order establishing the name change, or any other documentation that is sufficient evidence of the name change.
(2) A program participant shall notify the commission no later than 10 business days after the day on which the program participant's actual address or telephone number changes from the actual address or telephone number listed for the program participant.
(3) If a program participant remains enrolled in the program after a change of address, the program participant may not change the program participant's assigned address with the Driver License Division created under Section 53-3-103.

Enacted by Chapter 215, 2022 General Session

77-38-611 Address use by state or local government entities.
(1) Except as otherwise provided in Subsection (7), a program participant is responsible for requesting that a state or local government entity use the program participant's assigned address as the program participant's residential address.
(2) Except as otherwise provided in this part, if a program participant submits a valid authorization card, or a notification form, to a state or local government entity, the state or local government entity shall accept the assigned address listed on the authorization card or notification form as the program participant's address to be used as the program participant's residential address when creating a record.
(3) The program participant's assigned address shall be listed as the last known address if any last known address requirement is needed by the state or local government entity.
(4) The state or local government entity may photocopy a program participant's authorization card for a record for the state or local government entity, but the state or local government entity shall immediately return the authorization card to the program participant.
(5)
  (a) An election official, as defined in Section 20A-1-102, shall:
    (i) use a program participant's actual address for precinct designation and all official election-related purposes;
    (ii) classify the program participant's actual address as concealed; and

(iii) keep the program participant's actual address confidential from the public.

(b) A program participant may not use the program participant's assigned address for voter registration.

(c) An election official shall use the assigned address for all correspondence and mail for the program participant placed in the United States mail.

(d) A state or local government entity's access to a program participant's voter registration is subject to the request for disclosure process under Section 77-38-612.

(e) This Subsection (5) applies only to a program participant who submits a valid authorization card or a notification form when registering to vote.

(6)

(a) A state or local government entity may not use a program participant's assigned address for the purposes of listing, or appraising a property, or assessing property taxes.

(b) Except as provided by Subsection (6)(c), all property assessments and tax notices, property tax collection notices, and all property related correspondence placed in the United States mail for the program participant shall be addressed to the assigned address.

(c) The State Tax Commission shall use the actual address of a program participant, unless the commission provides the following information to the State Tax Commission:

(i) the full name of the program participant; and

(ii) the program participant's social security number, federal employee identification number, and any other identification number related to a tax, fee, charge, or license administered by the State Tax Commission.

(7)

(a) A state or local government entity may not use a program participant's assigned address for purposes of assessing any taxes or fees on a motor vehicle or a watercraft for titling or registering a motor vehicle or a watercraft.

(b) Except as provided by Subsection (7)(c), all motor vehicle and watercraft assessments and tax notices, title registration notices, and all related correspondence placed in the United States mail for the program participant is required to be addressed to the assigned address.

(c) The Motor Vehicle Division shall use the actual address of a program participant, unless the commission provides the following information to the Motor Vehicle Division:

(i) the full name of the program participant;

(ii) the assigned address of the program participant;

(iii) the motor vehicle or hull identification number for each motor vehicle or watercraft that is owned or leased by the program participant;

(iv) the license plate or registration number for each motor vehicle or watercraft that is owned or leased by the program participant; and

(v) the physical address where each motor vehicle or watercraft that is owned or leased by the program participant.

(d) Notwithstanding any other provision of this part, the Motor Vehicle Division may disclose to another state or local government entity all information that is necessary for the state or local government entity to distribute any taxes or fees collected for titling or registering a motor vehicle or a watercraft.

(e) Notwithstanding Section 41-1a-116 or any other provision of this part, the Motor Vehicle Division may not disclose the actual address of a program participant described in Subsection 77-38-605(3)(m)(ii) to:

(i) the Utah Criminal Justice Information System; or

(ii) the title, lien, and registration system that is provided to the Motor Vehicle Division by a third party contractor and is accessed in accordance with Subsection 41-1a-116(4).

(8)
(a) The Department of Corrections, or any other entity responsible for supervising a program participant who is on probation or parole as a result of a criminal conviction or an adjudication, may not use the program participant's assigned address if the program participant's actual address is necessary for supervising the program participant.
(b) All written communication delivered through the United States mail to the program participant by the Department of Corrections, or the other entity described in Subsection (8)(a), shall be addressed to the program participant's assigned address.
(9) If a program participant is required by law to swear or affirm to the program participant's address, the program participant may use the program participant's assigned address.
(10)
(a) A school district shall:
(i) accept the assigned address as the address of record; and
(ii) verify student enrollment eligibility with the commission.
(b) The commission shall help facilitate the transfer of student records as needed.
(11)
(a) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a record containing a program participant's address is confidential and, regardless of the record's classification under Title 63G, Chapter 2, Part 3, Classification, may not be disclosed by a state or local government entity, unless otherwise provided under this part.
(b) A program participant's actual address may not be disclosed to a third party by a state or local government entity, except:
(i) in a record created more than 90 days before the date on which the program participant applied for enrollment in the program; or
(ii) if a program participant voluntarily requests, in writing, that the program participant's actual address be disclosed to the third party.
(c) For a record created within 90 days before the date that a program participant applied for enrollment in the program, a state or local government entity shall redact the actual address from the record or change the actual address to the assigned address in the public record if the program participant presents a valid authorization card or a notification form and requests that the state or local government entity use the assigned address instead of the actual address on the record.

Amended by Chapter 237, 2023 General Session

77-38-612 Request for disclosure.
(1) A state or local government entity requesting disclosure of a program participant's actual address in accordance with this section shall make the request:
(a) in writing;
(b) on the state or local government entity's letterhead; and
(c) with the signature of the head or an executive-level official of the state or local government entity.
(2) In accordance with Subsection (1), a state or local government entity requesting disclosure of a program participant's actual address shall provide the commission with the name of the program participant and a statement:
(a) explaining why the state or local government entity is requesting the program participant's actual address;

(b) explaining why the state or local government entity cannot meet the state or local government entity's statutory or administrative obligations without the disclosure of the program participant's actual address;
(c) of facts showing that:
(i) other methods to locate the program participant's actual address have failed;
(ii) other methods will be unlikely to succeed; or
(iii) other means of contacting the program participant have failed or are unavailable; and
(d) that the state or local government entity has adopted a procedure to protect the confidentiality of the program participant's actual address.
(3) In response to a request for disclosure under Subsection (2), the commission may request additional information from the state or local government entity to help identify the program participant in the records of the office or to assess whether disclosure to the state or local government entity is permitted under this part.
(4)
(a) Except as provided in Subsection (4)(b), after receiving a request for disclosure from a state or local government entity under Subsection (1), the commission shall provide a program participant with written notification:
(i) informing the participant of the request, and to the extent possible, of an opportunity to be heard regarding the request; and
(ii) after a decision is made by the commission, whether the request has been granted or denied.
(b) The commission is not required to provide notice of a request for disclosure to a program participant under Subsection (4)(a) when:
(i) the request is made by a state or local law enforcement agency conducting a criminal investigation involving alleged criminal conduct by the program participant; or
(ii) providing notice to the program participant would jeopardize an ongoing criminal investigation or the safety of law enforcement personnel.
(5) The commission shall grant a state or local government entity's request for disclosure and disclose the program participant's actual address if:
(a) the state or local government entity has demonstrated a good faith statutory or administrative need for the actual address;
(b) the actual address will be used only for the purpose stated in the request;
(c) other methods to locate the program participant or the program participant's actual address have failed or are unlikely to succeed;
(d) other means of contacting the program participant have failed or are unavailable; and
(e) the state or local government entity has adopted a procedure to protect the confidentiality of the program participant's actual address.
(6) If the commission grants a request for disclosure under this section, the commission shall provide the state or local government entity with a disclosure that contains:
(a) the program participant's actual address;
(b) a statement of the permitted use of the program participant's actual address;
(c) the names or classes of persons permitted to have access to or use of the program participant's actual address;
(d) a statement that the state or local government entity is required to limit access to and use of the program participant's actual address to the permitted use and to the listed persons or classes of persons; and
(e) if expiration of the disclosure is appropriate, the date on which the permitted use of the program participant's actual address expires.

(7) If a request for disclosure is granted by the commission, a state or local government entity shall:
  (a) limit use of the program participant's actual address to the purpose stated in the disclosure;
  (b) limit access to the program participant's actual address to the persons or classes of persons stated in the disclosure;
  (c) cease use of the program participant's actual address upon the expiration of the permitted use;
  (d) dispose of the program participant's actual address upon the expiration of the permitted use; and
  (e) except as permitted in the request for disclosure, maintain the confidentiality of the program participant's actual address.
(8) Upon denial of a state or local government entity's request for disclosure, the commission shall promptly provide a written notification to the state or local government entity explaining the specific reasons for denying the request for disclosure.
(9)
  (a) A state or local government entity may file a written appeal with the commission no later than 15 days after the day on which the state or local government entity receives the written notification under Subsection (8).
  (b) A state or local government entity filing a written appeal under Subsection (9)(a) shall:
    (i) restate the information contained in the request for disclosure; and
    (ii) respond to the commission's reason for denying the request for disclosure.
  (c) The commission shall make a final determination on the appeal within 30 days after the day on which the appeal is received by the commission, unless the state or local government entity and the commission agree to a different deadline.
  (d) Before the commission makes a final determination, the commission may conduct a hearing or request additional information from the state or local government entity or the program participant.

Amended by Chapter 237, 2023 General Session

77-38-613 Request for disclosure by law enforcement.

(1) The commission shall establish a process to expedite a request submitted by a law enforcement officer or agency for the disclosure of information regarding a program participant who is involved in a criminal proceeding or investigation within 24 hours of the law enforcement officer or agency submitting the request.
(2) If a law enforcement officer or agency seeks the disclosure of a program participant's actual address from the commission under Subsection (1), the law enforcement officer or agency shall certify to the commission, or the commission's designee, that the official or agency has a system in place to protect the program participant's actual address from disclosure to:
  (a) the public; and
  (b) law enforcement personnel who are not involved in the criminal proceeding or investigation for which the disclosure is requested.
(3) Upon expiration of the use for the program participant's actual address in a criminal proceeding or investigation, a law enforcement officer or agency shall remove the program participant's actual address from any record system maintained by the law enforcement officer or agency.

Enacted by Chapter 215, 2022 General Session

77-38-614 Service of process at the assigned address.

(1) In accordance with the Utah Rules of Civil Procedure, Rule 4, the commission is the agent authorized to receive process for a program participant.

(2) In accordance with the Utah Rules of Civil Procedure, Rule 5, the last known address for a program participant is the program participant's assigned address, not the program participant's actual address.

Enacted by Chapter 215, 2022 General Session

77-38-615 Participation in the program -- Orders in relation to allocation of custody or parent-time.

(1) A court may not consider a parent's participation in the program for the purpose of making an order allocating custody or parent-time under Title 81, Chapter 9, Custody, Parent-time, and Visitation.

(2) A court shall take practical measures to keep a program participant's actual address confidential when making an order allocating custody or parent-time.

(3) Nothing in this part affects an order relating to the allocation of custody or parent-time in effect prior to or during a program participant's participation in the program.

Amended by Chapter 366, 2024 General Session

77-38-616 Disclosure of address or identifiable information in a judicial or administrative proceeding.

(1) A program participant may submit the program participant's actual address to the court as a safeguarded record in accordance with the Utah Code of Judicial Administration, Rule 4-202.02.

(2) A person may not compel disclosure of a program participant's actual address or identifying information related to the program participant's residence during a proceeding in a court or administrative proceeding, unless:

(a) the court orders the disclosure of the program participant's address; or

(b) an administrative tribunal finds, based on a preponderance of the evidence, that:

(i) the disclosure is required in the interest of justice;

(ii) public interest in the disclosure substantially outweighs the potential harm to the program participant; or

(iii) no other alternative would satisfy the necessity of the disclosure.

(3) If disclosure of a program participant's actual address is required in a proceeding before a court or administrative tribunal, the court or administrative tribunal may safeguard the portion of a record that contains the program participant's actual address.

(4) Nothing in this section prevents a state or local government entity from using a program participant's actual address in filing a document or record with a court or administrative tribunal if, at the time of the filing, the document or record is filed under safeguard or not a public record.

Enacted by Chapter 215, 2022 General Session

77-38-617 Cancellation of enrollment -- Records.

(1) The commission shall cancel a program participant's enrollment in the program if:

(a) the program participant submits to the commission a written request to withdraw from enrollment in accordance with Section 77-38-606;
(b) the program participant fails to notify the commission of a change in the program participant's name, actual address, or telephone number that is listed on the application;
(c) the program participant, or a parent or guardian of the program participant, knowingly submits false information in the program application; or
(d) mail forwarded to the program participant by the commission is returned as undeliverable.
(2)
(a) If the commission determines that there are grounds for cancelling a program participant's enrollment in accordance with Subsection (1), the commission shall send notice of the cancellation with the reason for cancellation to the program participant at the program participant's actual address and email address.
(b) A program participant has 30 days to appeal the cancellation decision in accordance with procedures developed by the commission.
(3) A program participant who receives a notice of cancellation is responsible for notifying a person who uses the program participant's assigned address to communicate with the program participant that the assigned address is no longer valid.
(4) If the commission cancels a program participant's enrollment in the program, the program participant is not eligible to participate in the program for six months after the day on which the commission cancels the program participant's enrollment in the program.

Enacted by Chapter 215, 2022 General Session

77-38-618 Retention and destruction of records.

The commission shall establish policies and procedures regarding the maintenance and destruction of applications, records, and other documents received or generated under this part.

Amended by Chapter 237, 2023 General Session

77-38-619 Immunity from suit.

(1) A program assistant, or a program assistant's employer, is immune from liability in a civil action or proceeding involving the performance or nonperformance of a duty under this part, unless:
(a) the performance or nonperformance of a program assistant was manifestly outside the scope of the program assistant's duties in the program; or
(b) the program assistant acted with malicious purpose, bad faith, or in a wanton or reckless manner.
(2) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, or any other governmental immunity provided by law, the commission, the state, and the political subdivisions of the state are immune from liability in a civil action or proceeding involving the performance or nonperformance of a duty under the program.

Amended by Chapter 237, 2023 General Session

77-38-620 Safe at Home Program Restricted Account -- Report.

(1) There is created a restricted account in the General Fund known as the "Safe at Home Program Restricted Account."
(2) The account shall be funded by:
(a) private contributions;

(b) gifts, donations, or grants from public or private entities; and
(c) interest and earnings on account money.
(3) Upon appropriation by the Legislature, the commission may expend funds from the account to:
(a) designate, train, and manage program assistants;
(b) develop, distribute, and process application forms and related materials for the program;
(c) assist applicants and program participants in enrolling in the program; or
(d) ensure program participants receive mail forwarded from the program to the program participant's actual address.
(4) No later than December 31 of each year, the commission shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report of the program's activities, including:
(a) the contributions received under Subsection (2);
(b) an accounting of the money expended or committed to be expended by the commission under Subsection (3); and
(c) the balance of the account.

Amended by Chapter 237, 2023 General Session

77-38-621 Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to:
(1) establish a process to expedite requests from law enforcement officers and agencies in accordance with Section 77-38-613;
(2) establish procedures for an appeal process regarding cancellation of enrollment under Section 77-38-617; and
(3) establish the procedures for the retention and destruction of records and other documents in accordance with Section 77-38-618.

Enacted by Chapter 215, 2022 General Session