

RESOLUTION ON VICTIM'S RIGHTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Gary F. Cox

A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND RULE 615 OF THE UTAH RULES OF EVIDENCE REGARDING THE EXCLUSION OF WITNESSES FROM THE COURTROOM; AND PROVIDING AN EFFECTIVE DATE.

This resolution proposes to amend the Utah Rules of Evidence as follows:

AMENDS:

Rule 615, Utah Rules of Evidence

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. **Rule 615**, Utah Rules of Evidence is amended to read:

Rule 615. Exclusion of witnesses.

(1) At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order on its own motion. This rule does not authorize exclusion of:

(a) a party who is a natural person;

(b) an officer or employee of a party which is not a natural person designated as its representative by its attorney;

(c) a person whose presence is shown by a party to be essential to the presentation of the party's cause; [or]

(d) a victim in a criminal or juvenile delinquency proceeding where the prosecutor agrees with the victim's presence[-]; or

28 (e) a victim counselor, unless the defendant establishes that the counselor is a material
29 witness whose testimony would be materially affected by hearing the testimony of other witnesses
30 at the proceeding.

31 (2) The court may exclude or excuse a victim from the courtroom if the victim becomes
32 disruptive.

33 (3) A victim in a criminal or juvenile delinquency proceeding who elects to be present in
34 the courtroom may not be prevented from testifying, even after being present and having heard
35 other testimony.

36 (4) As used in this rule, "victim counselor":

37 (a) means a person who is employed by or volunteers at any office, institution, or center
38 assisting victims of crimes and their families which offers crisis intervention or support, medical
39 or legal services, or counseling; and

40 (b) includes a "sexual assault counselor" as defined in Section 78-3c-3, Utah Code
41 Annotated.

42 Section 2. **Effective date.**

43 As provided in Utah Constitution Article VIII, Section 4, this act takes effect upon approval
44 by a constitutional two-thirds vote of all members elected to each house.

Legislative Review Note
as of 12-23-99 8:32 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel