

A VICTIM AMICUS BILL

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill provides victims of crime the right to submit a written statement in actions on appeal related to that crime.

Highlighted Provisions:

This bill:

▶ gives victims of crime the right to submit a written statement in actions on appeal related to the crime of which they are victims.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-38-4, as last amended by Laws of Utah 1995, Chapter 352

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

Section 1. Section **77-38-4** is amended to read:

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 shall have the right:

(a) to be present at the important criminal or juvenile justice hearings provided in Subsections 77-38-2(5)(a) through (f) ~~[-the right to];~~

30 **(b)** to be heard at the important criminal or juvenile justice hearings provided in
31 Subsections 77-38-2(5)(b), (c), (d), and (f)~~[, and,];~~

32 **(c)** to submit a written statement in any action on appeal related to that crime; and

33 **(d)** upon request to the judge hearing the matter, ~~[the right]~~ to be present and heard at
34 the initial appearance of the person suspected of committing the conduct or criminal offense
35 against the victim on issues relating to whether to release a defendant or minor and, if so, under
36 what conditions release may occur.

37 (2) This chapter shall not confer any right to the victim of a crime to be heard:

38 (a) at any criminal trial, including the sentencing phase of a capital trial under Section
39 76-3-207 or at any preliminary hearing, unless called as a witness; and

40 (b) at any delinquency trial or at any preliminary hearing in a minor's case, unless called
41 as a witness.

42 (3) The right of a victim or representative of a victim to be present at trial is subject to
43 Rule 615 of the Utah Rules of Evidence.

44 (4) Nothing in this chapter shall deprive the court of the right to prevent or punish
45 disruptive conduct nor give the victim of a crime the right to engage in disruptive conduct.

46 (5) The court shall have the right to limit any victim's statement to matters that are
47 relevant to the proceeding.

48 (6) In all cases where the number of victims exceeds five, the court may limit the
49 in-court oral statements it receives from victims in its discretion to a few representative
50 statements.

51 (7) Except as otherwise provided in this section, a victim's right to be heard may be
52 exercised at the victim's discretion in any appropriate fashion, including an oral, written,
53 audiotaped, or videotaped statement or direct or indirect information that has been provided to
54 be included in any presentence report.

55 (8) If the victim of a crime is a person who is in custody as a pretrial detainee, as a
56 prisoner following conviction for an offense, or as a juvenile who has committed an act that
57 would be an offense if committed by an adult, or who is in custody for mental or psychological

58 treatment, the right to be heard under this chapter shall be exercised by submitting a written
59 statement to the court.

60 (9) The court may exclude any oral statement from a victim on the grounds of the
61 victim's incompetency as provided in Rule 601(a) of Utah Rules of Evidence.

62 (10) Except in juvenile court cases, the Constitution may not be construed as limiting
63 the existing rights of the prosecution to introduce evidence in support of a capital sentence.