

HB0248S01 compared with HB0248

~~{deleted text}~~ shows text that was in HB0248 but was deleted in HB0248S01.

inserted text shows text that was not in HB0248 but was inserted into HB0248S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Mike K. McKell proposes the following substitute bill:

CRIME VICTIMS RESTITUTION ~~{ACT}~~AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~{amends the Crime Victims Restitution Act}~~ allows a designated representative of a victim to pursue restitution claims.

Highlighted Provisions:

This bill:

- ▶ allows for a person who claims pecuniary damages as a result of a defendant's criminal activities to seek restitution individually through ~~{counsel or though the prosecutor's office}~~ a representative.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

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Utah Code Sections Affected:

AMENDS:

~~{77-38a-202}~~**77-38-9**, as last amended by Laws of Utah ~~{2011}~~**1995**, Chapter
~~{131}~~**352**

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

Section 1. Section 77-38-9 is amended to read:

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;

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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.

{ ~~Section 1. Section 77-38a-202 is amended to read:~~

77-38a-202. Restitution determination -- Prosecution duties and responsibilities.

~~(1) At the time of entry of a conviction or entry of any plea disposition of a felony or class A misdemeanor, the attorney general, county attorney, municipal attorney, or district attorney shall provide to the district court:~~

~~(a) the names of all victims, including third parties, asserting claims for restitution;~~
~~(b) the actual or estimated amount of restitution determined at that time; and~~
~~(c) whether or not the defendant has agreed to pay the restitution specified as part of the plea disposition.~~

~~(2) In computing actual or estimated restitution, the attorney general, county attorney, municipal attorney, or district attorney shall:~~

~~(a) use the criteria set forth in Section 77-38a-302 for establishing restitution amounts; and~~
~~(b) in cases involving multiple victims, incorporate into any conviction or plea disposition all claims for restitution arising out of the investigation for which the defendant is charged.~~

(3) A victim may seek restitution from the court through:

~~(a) individual counsel;~~
~~(b) a representative designated in writing; or~~
~~(c) the prosecutor's office.~~

~~[3] (4) If charges are not to be prosecuted as part of a plea disposition, restitution claims from victims of those crimes shall also be provided to the court.~~

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- [§(4)] (5)(a) The attorney general, county attorney, municipal attorney, or district attorney may be authorized by the appropriate public treasurer to deposit restitution collected on behalf of crime victims into an interest bearing account in accordance with Title 51, Chapter 7, State Money Management Act, pending distribution of the funds.
- (b) In the event restitution funds are deposited in an interest bearing account as provided under Subsection [§(4)] (5)(a), the attorney general, county attorney, municipal attorney, or district attorney shall:
- (i) distribute any interest that accrues in the account to each crime victim on a pro rata basis; and
- (ii) if all crime victims have been made whole and funds remain, distribute any remaining funds to the state Division of Finance for deposit to the Utah Office for Victims of Crime.
- (c) This section does not prevent an independent judicial authority from collecting, holding, and distributing restitution.

Legislative Review Note

— as of 12-20-13 11:33 AM

— Office of Legislative Research and General Counsel —