

CRIMINAL PROCEDURE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to jury instructions.

Highlighted Provisions:

This bill:

- ▶ modifies rights of a defendant;
- ▶ defines "manifestly unjust";
- ▶ addresses jury instructions; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-1-6, as enacted by Laws of Utah 1980, Chapter 15

77-17-10, as enacted by Laws of Utah 1980, Chapter 15

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

Section 1. Section **77-1-6** is amended to read:

77-1-6. Rights of defendant.



- 28 (1) In criminal prosecutions the defendant is entitled to:
- 29 (a) [~~¶~~] appear in person and defend in person or by counsel;
- 30 (b) [~~¶~~] receive a copy of the accusation filed against [~~him~~] the defendant;
- 31 (c) [~~¶~~] testify in [~~his~~] the defendant's own behalf;
- 32 (d) [~~¶~~] be confronted by the witnesses against [~~him~~] the defendant;
- 33 (e) [~~¶~~] have compulsory process to insure the attendance of witnesses in [~~his~~] the
- 34 defendant's behalf;

35 (f) [~~¶~~] a speedy public trial by an impartial jury of the county or district where the
 36 offense is alleged to have been committed;

37 (g) [~~¶~~] the right of appeal in all cases; [~~and~~]

38 (h) [~~¶~~] be admitted to bail in accordance with provisions of law, or be entitled to a
 39 trial within 30 days after arraignment if unable to post bail and if the business of the court
 40 permits[-]; and

41 (i) request a jury instruction described in Section 77-17-10 related to a jury's power to
 42 find a defendant not guilty on a charge when a guilty verdict on that charge would be
 43 manifestly unjust.

44 (2) In addition:

45 (a) [~~No person shall~~] a person may not be put twice in jeopardy for the same offense;

46 (b) [~~No accused person shall~~] an accused person may not, before final judgment, be
 47 compelled to advance money or fees to secure rights guaranteed by the Constitution or the laws
 48 of Utah, or to pay the costs of those rights when received;

49 (c) [~~No person shall~~] a person may not be compelled to give evidence against [~~himself~~]
 50 the person;

51 (d) [~~A~~] a wife [~~shall~~] may not be compelled to testify against her husband nor a
 52 husband against his wife; and

53 (e) [~~No person shall~~] a person may not be convicted unless by verdict of a jury, or upon
 54 a plea of guilty or no contest, or upon a judgment of a court when trial by jury has been waived
 55 or, in case of an infraction, upon a judgment by a magistrate.

56 Section 2. Section 77-17-10 is amended to read:

57 **77-17-10. Court to determine law -- The jury to determine the facts – Jury**
 58 **instruction.**

59 (1) In a jury trial, questions of law are to be determined by the court, questions of fact
60 by the jury.

61 (2) The jury may find a general verdict [~~which~~] that includes questions of law as well
62 as fact but they are bound to follow the law as stated by the court.

63 (3) (a) As used in this Subsection (3), "manifestly unjust" means a finding that the
64 application of the facts to the law is shocking to the conscience or results in an injustice that is
65 direct and obvious to a reasonable person with due consideration of the totality of
66 circumstances.

67 (b) A defendant may request that the court provide the jury a jury instruction that
68 allows the jury to find a defendant not guilty on a specific charge when a guilty verdict would
69 be manifestly unjust.

70 (c) A court may provide the jury instruction described in Subsection (3)(b) if the court
71 finds that there is a sufficient factual basis to support a jury finding a defendant not guilty of
72 the charge because a guilty verdict would be manifestly unjust.

Legislative Review Note
Office of Legislative Research and General Counsel