

Representative Steve Eliason proposes the following substitute bill:

VICTIM RIGHTS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Todd Weiler

Cosponsors: Andrew Stoddard

Lee B. Perry Mike Winder

LONG TITLE

General Description:

This bill allows investigations to be reviewed at the request of a victim or victim's family.

Highlighted Provisions:

This bill:

- ▶ creates a review process for open investigations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

11-63-101, Utah Code Annotated 1953

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



25 Section 1. Section 11-63-101 is enacted to read:

26 **11-63-101. Review of open investigation.**

27 (1) An individual who is a victim of a first degree felony, or who is a family member of
28 a missing person or homicide victim, may request review of a criminal investigation if:

29 (a) the incident was reported for investigation to a law enforcement agency with
30 jurisdiction to investigate the incident;

31 (b) at least one year has passed from the date the incident was first reported for
32 investigation to a law enforcement agency with jurisdiction to investigate the incident; and

33 (c) the law enforcement agency investigating the incident has not submitted the
34 investigation results to be screened for criminal charges by the county or district attorney in the
35 jurisdiction in which the incident occurred.

36 (2) (a) ~~H~~→ ~~[The]~~ An ←~~H~~ individual who is a victim of a first degree felony, or who is a
36a family

37 member of a missing person or homicide victim, may request review of the investigation by the
38 chief executive of the law enforcement agency investigating the incident. Within 30 days after
39 receiving a request, the chief executive of the law enforcement agency shall meet with the
40 investigating officers to evaluate the investigation, including existing leads and obstacles and
41 investigative resources that may be available to move the investigation to conclusion, and
42 develop a plan to:

43 (i) close the investigation;

44 (ii) undertake further investigative steps; or

45 (iii) submit the investigation results to be screened for criminal charges by the county
46 or district attorney in the jurisdiction in which the incident occurred.

47 (b) Within 60 days after receiving a request for review under Subsection (2)(a), the
48 chief executive of the law enforcement agency investigating the incident shall send written
49 notification to the individual who made the review request advising the individual whether the
50 agency will:

51 (i) close the investigation;

52 (ii) undertake further investigative steps; or

53 (iii) submit the investigation results to be screened for criminal charges.

54 (3) (a) If the written notification under Subsection (2)(b) indicates further investigative
55 steps will be undertaken or that the investigation results will be submitted to be screened for

56 criminal charges and no charges have been filed within 90 days following the date of the
 57 written notification under Subsection (2)(b), or the investigation will be closed, the individual
 58 who is a victim of crime, or who is a family member of a victim of crime, may submit a second
 59 request to the law enforcement agency investigating the incident that the investigation results
 60 and all evidence be transferred to another law enforcement agency with jurisdiction over the
 61 area in which the incident occurred.

62 (b) Within 15 days after receiving a transfer request under Subsection (3)(a), the chief
 63 executive of the law enforcement agency shall forward the investigation results to the law
 64 enforcement agency requested by the victim or victim's family.

65 (c) Within 30 days of receiving the investigation results from the initial law
 66 enforcement agency investigating the incident, the receiving law enforcement agency shall
 67 evaluate the investigation, including existing leads and obstacles, evidence, and investigative
 68 resources that may be available to move the investigation to conclusion, and:

69 (i) develop a plan to undertake further investigative steps; or

70 (ii) decline to accept the transferred investigation.

71 (d) Within 60 days after receiving the investigation results from the initial law
 72 enforcement agency investigating the incident, the receiving law enforcement agency shall send
 73 written notification to the individual who made the transfer request advising the individual
 74 whether the receiving law enforcement agency will undertake further investigative steps.

75 (4) If the receiving law enforcement agency declines to accept the transferred
 76 investigation, it shall return all evidence and information to the initial law enforcement agency
 77 within 30 days.

78 (5) Nothing in this section requires a law enforcement agency or prosecuting agency to
 79 close an investigation if charges are not filed within the time frames set forth in this section.

80 (6) An individual who is a victim of a first degree felony, or who is a family member of
 81 a missing person or homicide victim, may seek review of an investigation by the attorney
 82 general, pursuant to its concurrent jurisdiction to investigate and prosecute crimes in any city or
 83 county of the state.

84 (a) ~~Ë~~→ [Within] Subject to Subsection (d), within ~~←Ë~~ 30 days of receiving a request
 84a from an individual who is a victim of a first
 85 degree felony, or who is a family member of a missing person or homicide victim, to accept a
 86 transferred investigation, the attorney general shall request from the initial law enforcement

87 agency all evidence and information regarding the investigation.

88 (b) Within 60 days after receiving the investigation information from the initial law
89 enforcement agency investigating the incident, the attorney general shall review all evidence
90 and information received and make a determination regarding the investigation.

91 (c) The attorney general shall send written notification to the individual who made the
92 transfer request within 60 days of its decision decline or continue an investigation.

92a **←→ (d) The attorney general shall decline the transfer request if action by the attorney general**
92b **would interfere with an ongoing investigation or prosecution by the county or district attorney**
92c **in the jurisdiction in which the incident occurred. If the attorney general declines the transfer**
92d **based upon this subsection, the attorney general shall refer the transfer request to another law**
92e **enforcement agency with jurisdiction to investigate. The law enforcement agency to which the**
92f **incident is referred shall follow the procedure in Subsections (a) through (c). ←→**

92g **←→ (7) An individual who is a victim of a first degree felony or who is a family member of a**
92h **missing person or homicide victim may request the assistance of a nonprofit organization**
92i **based in Utah that assists in solving unsolved crimes. If the nonprofit organization agrees to**
92j **assist the individual or family member, the initial law enforcement agency shall, with the**
92k **consent of the individual or family member, share information and evidence regarding that**
92l **specific case with the nonprofit organization. ←→**