

UTAH VICTIM RIGHTS

(Rev.04292024)

ALL VICTIMS - Under Utah Constitution, Article 1, Section 28, all victims of crime have the following rights:

- 1) "To be treated with fairness, respect, and dignity, and to be free from harassment and abuse throughout the criminal justice process." *Utah Constitution, Article 1, Section 28.*
- 2) "To have a sentencing judge, for the purpose of imposing an appropriate sentence, receive and consider, without evidentiary limitation, reliable information concerning the background, character, and conduct of a person convicted of an offense except that this subsection does not apply to capital cases or situations involving privileges." *Utah Constitution, Article 1, Section 28.*

VICTIMS OF FELONY CASES - Under Utah Constitution, Article 1, Section 28, and Utah State Code Title 77, Chapter 38, victims of felony offenses have the following rights:

- 1) "To be informed of, be present at, and to be heard at important criminal justice hearings related to the victim, either in person or through a lawful representative, once a criminal information or indictment charging a crime has been publicly filed in court." *Utah Constitution, Article 1, Section 28.*
- 2) "To be present at the important criminal or juvenile justice hearings provided in Subsection 77-38-2(5)." *Utah Code § 77-38-4(1)(a).*
- 3) "To be heard at the important criminal or juvenile justice hearings provided in Subsection 77-38-2(5)." *Utah Code § 77-38-4(1)(b).*

VICTIMS OF FELONY, CLASS A or B MISDEMEANORS, AND JUVENILE COURT CASES - Under Utah State Code Title 77, Chapter 38, a victim of (1) felony offense(s) filed in a Utah court, (2) class A and class B misdemeanor offense(s) filed in a court of the state; and (3) offense(s) filed in a juvenile court of the state, have the following rights:

- 1) "To be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding witness tampering, and Section 76-8-509, regarding threats against a victim." *Utah Code § 77-37-3(1)(a).*
- 2) "To be informed and assisted as to their role in the criminal justice process." *Utah Code § 77-37-3(1)(b).*
- 3) "To clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses." *Utah Code § 77-37-3(1)(c).*

- 4) "To have a secure waiting area that does not require a victim to be in close proximity to defendants or the family and friends of defendants." *Utah Code § 77-37-3(1)(d)*.
- 5) "To seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710." *Utah Code § 77-37-3(1)(e)*.
- 6) "To have any personal property returned as provided in Chapter 11a, Seizure of Property and Contraband, and Chapter 11d, Lost or Mislaid Property." *Utah Code § 77-37-3(1)(f)*.
- 7) "To reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process." *Utah Code § 77-37-3(1)(g)*.
- 8) "To have a speedy disposition of the entire criminal justice process." *Utah Code § 77-37-3(1)(h)*.
- 9) "To timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings." *Utah Code § 77-37-3(1)(i)*.
- 10) "To submit a written statement in any action on appeal related to that crime." *Utah Code § 77-38-4(1)(c)*.
- 11) "To be present and heard at the initial appearance of the person suspected of committing the conduct or criminal offense against the victim on issues relating to whether to release a defendant or minor and, if so, under what conditions release may occur." *Utah Code § 77-38-4(1)(d)*.
- 12) "Not to testify regarding the victim's address, telephone number, place of employment, or other locating information unless the victim specifically consents or the court orders disclosure on finding that a compelling need exists to disclose the information." *Utah Code § 77-38-6(1)*.
- 13) "To a speedy disposition of the charges free from unwarranted delay caused by or at the behest of the defendant or minor and to prompt and final conclusion of the case after the disposition or conviction and sentence, including prompt and final conclusion of all collateral attacks on dispositions or criminal judgments." *Utah Code § 77-38-7(2)*.
- 14) "To 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." *Utah Code § 77-38-9(1)(a)*.
- 15) "To object to a petition for expungement." *Utah Code § 77-38-14, Utah Code § 77-40a-305 and Utah Code § 80-6-1004.1*.

VICTIMS OF JUSTICE COURT CASES - Under Utah State Code Title 77, Chapter 38b or Title 78A, Chapter 7, a victim of criminal conduct originating in prosecution in a justice court of the state, has the following rights to restitution:

- 1) "To file a motion for restitution." *Utah Code § 77-38b-205(6)(a)*.
- 2) "To file a motion modifying an existing order of restitution." *Utah Code § 77-38b-205(7)*.
- 3) "To a restitution hearing de novo in the district court if a request for restitution for the victim was made in the justice court and the justice court either failed to order the defendant to pay restitution to the victim or ordered the defendant to pay restitution in an amount less than requested." *Utah Code § 78A-7-118(8)(a)*.

VICTIMS OF JUVENILE COURT CASES - Under Utah State Code Title 80, Chapter 6, a victim whom a juvenile court determines suffered a material loss as a result of a minor's wrongful act or conduct has the following right to restitution:

"To have an attorney make a request for an order for restitution in the juvenile court on their behalf at the time of disposition or within 90 days after disposition." *Utah Code § 80-6-710(4)(a)*.

VICTIMS SEEKING TO APPEAL DENIAL OF MOTION FOR RESTITUTION - "To appeal the district court's denial of a motion for restitution." *State v Brown*, 2014 UT 48 and *State v Hembree*, 2023 UT App 112.

VICTIMS OF A SEXUAL OFFENSE - Under Utah State Code Title 77, Chapter 37, Subsection (3)(1), a victim of a sexual offense has the following additional rights:

- 1) "To request voluntary testing for themselves for HIV infection as provided in Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section 53-10-802." *Utah Code § 77-37-3(1)(j)(i)*.
- 2) "To be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence." *Utah Code § 77-37-3(1)(j)(ii)*.
- 3) "To be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System." *Utah Code § 77-37-3(1)(j)(iii)*.
- 4) "To be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation." *Utah Code § 77-37-3(1)(j)(iv)*.
- 5) "To designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection 77-37-3(1)(j) and under Subsections 77-37-3(2) and (3)." *Utah Code § 77-37-3(1)(j)(v)*.

VICTIMS WHO ARE MINORS - Under Utah State Code Title 77, Chapter 37 and 38, child victims have the following additional rights:

- 1) "To protection from physical and emotional abuse during their involvement with the criminal justice process." *Utah Code § 77-37-4(1)*.
- 2) "To not be questioned, in any manner, nor to have allegations made, implying that children are responsible for inappropriate behavior adults commit against them." *Utah Code § 77-37-4(2)*.
- 3) "To have interviews relating to a criminal prosecution kept to a minimum." *Utah Code § 77-37-4(3)*.
- 4) "To be informed of available community resources that might assist them and how to gain access to those resources." *Utah Code § 77-37-4(4)*.
- 5) "To keep confidential their interviews that are conducted at a Children's Justice Center, including video and audio recordings, and transcripts of those recordings." *Utah Code § 77-37-4(5)(a)*.
- 6) To be examined or cross-examined in any criminal proceeding or juvenile court in age appropriate language. *Utah Code § 77-38-8(1)*.

SCOPE AND AUTHORITY of JUDICIAL DISTRICT VICTIM RIGHTS COMMITTEES - Under Utah State Code 63M-7-1001(8) a committee has authority to make findings over victim rights* as follows:

- (8) "Victim's rights" means the rights afforded to a victim under Title 77, Chapter 37, Victims' Rights, Title 77, Chapter 38, Crime Victims, and Utah Constitution, Article I, Section 28.

***Note:** current statutory scope and authority does not include Rule 35. However, a recodification is in the works for the 2024 legislative session and this may be corrected.