

VICTIMS' RIGHTS REVISIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Judy Weeks Rohner

Senate Sponsor: John D. Johnson

Cosponsors:	Karianne Lisonbee
Sandra Hollins	Michael J. Petersen
Dan N. Johnson	Andrew Stoddard

LONG TITLE

General Description:

This bill amends victims' rights requirements.

Highlighted Provisions:

This bill:

- requires a prosecuting entity to provide notice of a plea deal to a victim.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-38-3, as last amended by Laws of Utah 2021, Chapter 260

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

Section 1. Section **77-38-3** is amended to read:

77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact

28 **order.**

29 (1) Within seven days after the day on which felony criminal charges are filed against a
30 defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and
31 locatable victims of the crime contained in the charges, except as otherwise provided in this
32 chapter.

33 (2) The initial notice to the victim of a crime shall provide information about electing
34 to receive notice of subsequent important criminal justice hearings listed in Subsections
35 77-38-2(5)(a) through (f) and rights under this chapter.

36 (3) The prosecuting agency shall provide notice to a victim of a crime:

37 (a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a)
38 through (f), which the victim has requested; and

39 (b) for a restitution request to be submitted in accordance with Section 77-38b-202.

40 (4) (a) The responsible prosecuting agency may provide initial and subsequent notices
41 in any reasonable manner, including telephonically, electronically, orally, or by means of a
42 letter or form prepared for this purpose.

43 (b) In the event of an unforeseen important criminal justice hearing, listed in
44 Subsections 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith
45 attempt to contact the victim by telephone shall be considered sufficient notice, provided that
46 the prosecuting agency subsequently notifies the victim of the result of the proceeding.

47 (5) (a) The court shall take reasonable measures to ensure that its scheduling practices
48 for the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for
49 victims of crimes to be notified.

50 (b) The court shall consider whether any notification system that the court might use to
51 provide notice of judicial proceedings to defendants could be used to provide notice of judicial
52 proceedings to victims of crimes.

53 (6) A defendant or, if it is the moving party, the Division of Adult Probation and
54 Parole, shall give notice to the responsible prosecuting agency of any motion for modification

55 of any determination made at any of the important criminal justice hearings provided in
56 Subsections 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so
57 that the prosecuting agency may comply with the prosecuting agency's notification obligation.

58 (7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and
59 Parole for the important criminal justice hearing under Subsection 77-38-2(5)(g).

60 (b) The board may provide notice in any reasonable manner, including telephonically,
61 electronically, orally, or by means of a letter or form prepared for this purpose.

62 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give
63 notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through
64 (f) only where the victim has responded to the initial notice, requested notice of subsequent
65 proceedings, and provided a current address and telephone number if applicable.

66 (9) To facilitate the payment of restitution and the notice of hearings regarding
67 restitution, a victim who seeks restitution and notice of restitution hearings shall provide the
68 court with the victim's current address and telephone number.

69 (10) (a) Law enforcement and criminal justice agencies shall refer any requests for
70 notice or information about crime victim rights from victims to the responsible prosecuting
71 agency.

72 (b) In a case in which the Board of Pardons and Parole is involved, the responsible
73 prosecuting agency shall forward any request for notice the prosecuting agency has received
74 from a victim to the Board of Pardons and Parole.

75 (11) In all cases where the number of victims exceeds 10, the responsible prosecuting
76 agency may send any notices required under this chapter in the prosecuting agency's discretion
77 to a representative sample of the victims.

78 (12) (a) A victim's address, telephone number, and victim impact statement maintained
79 by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice
80 Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for
81 purposes of providing notice under this section, are classified as protected under Subsection

82 63G-2-305(10).

83 (b) The victim's address, telephone number, and victim impact statement is available
84 only to the following persons or entities in the performance of their duties:

85 (i) a law enforcement agency, including the prosecuting agency;

86 (ii) a victims' right committee as provided in Section 77-37-5;

87 (iii) a governmentally sponsored victim or witness program;

88 (iv) the Department of Corrections;

89 (v) the Utah Office for Victims of Crime;

90 (vi) the Commission on Criminal and Juvenile Justice;

91 (vii) the Utah State Courts; and

92 (viii) the Board of Pardons and Parole.

93 (13) The notice provisions as provided in this section do not apply to misdemeanors as
94 provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section
95 77-38-2.

96 (14) (a) When a defendant is charged with a felony crime under Sections 76-5-301
97 through 76-5-310 regarding kidnapping, human trafficking, and human smuggling; Sections
98 76-5-401 through 76-5-413 regarding sexual offenses; or Section 76-10-1306 regarding
99 aggravated exploitation of prostitution, the court may, during any court hearing where the
100 defendant is present, issue a pretrial criminal no contact order:

101 (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise
102 communicating with the victim directly or through a third party;

103 (ii) ordering the defendant to stay away from the residence, school, place of
104 employment of the victim, and the premises of any of these, or any specified place frequented
105 by the victim or any designated family member of the victim directly or through a third party;
106 and

107 (iii) ordering any other relief that the court considers necessary to protect and provide
108 for the safety of the victim and any designated family or household member of the victim.

109 (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a
110 third degree felony.

111 (c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no
112 contact order that has been issued if the victim can be located with reasonable effort.

113 (ii) The court shall also transmit the pretrial criminal no contact order to the statewide
114 domestic violence network in accordance with Section [78B-7-113](#).

115 (15) (a) When a case involving a victim may resolve before trial with a plea deal, the
116 prosecutor shall notify the victim of that possibility as soon as practicable.

117 (b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall
118 explain the available details of an anticipated plea deal.