

**URE 512. Victim Communications****(a) Definitions.**

(a)(1) "Advocacy services" means the same as that term is defined in Utah Code section 77-38-403.

(a)(2) "Confidential communication" means communication made privately for the purpose of obtaining or receiving Advocacy Services from a Victim Advocate and not intended for further disclosure except to other persons in furtherance of the purpose of the communication.

(a)(3) "Criminal justice system victim advocate" means the same as that term is defined in Utah Code section 77-38-403.

(a)(4) "Health care provider" means the same as that term is defined in Utah Code section 78B-3-403.

(a)(5) "Mental health therapist" means the same as that term is defined in Utah Code section 58-60-102.

(a)(6) "Victim" means an individual defined as a victim in Utah Code section 77-38-403.

(a)(7) "Victim advocate" means the same as that term is defined in Utah Code section 77-38-403.

**(b) Statement of the Privilege.** A victim communicating with a victim advocate has a privilege during the victim's life to refuse to disclose and to prevent any other person from disclosing a confidential communication.

**(c) Who May Claim the Privilege.** The privilege may be claimed by:

(c)(1) the victim;

(c)(2) the guardian or conservator of the victim if the guardian or conservator is not the accused; and

(c)(3) the victim advocate during the life of the victim.

**(d) Disclosures That Do Not Waive the Privilege.** The confidential communication may be disclosed in the following circumstances without waiving the privilege found in paragraph (b):

(d)(1) the confidential communication is required to be disclosed under Title 62A, Chapter 4a, Child and Family Services, or Utah Code section 62A-3-305;

(d)(2) the confidential communication is evidence of a victim being in clear and immediate danger to the victim's self or others;

(d)(3) the confidential communication is evidence that the victim has committed a crime, plans to commit a crime, or intends to conceal a crime;

(d)(4) if the confidential communication is with a criminal justice system victim advocate, the criminal justice system victim advocate may disclose the confidential communication to a law enforcement officer, health care provider, mental health therapist, domestic violence shelter employee, an employee of the Utah Office for Victims of Crime, a member of a multidisciplinary team assembled by a Children's Justice Center or law enforcement agency for the purpose of providing advocacy services, or a parent or guardian if the victim is a minor and the parent or guardian is not the accused;

(d)(5) the confidential communication is with a criminal justice system victim advocate, and the criminal justice system victim advocate must disclose the confidential communication to a prosecutor under Utah Code section 77-38-405;

**(e) Disclosures That Waive the Privilege.**

(e)(1) No privilege exists under paragraph (b) if:

(e)(1)(A) the victim, or the victim's guardian or conservator, if the guardian or conservator is not the accused, provides written, informed, and voluntary consent for the disclosure, and the written disclosure contains:

(e)(1)(A)(i) the specific confidential communication subject to disclosure;

(e)(1)(A)(ii) the limited purpose of the disclosure;

(e)(1)(A)(iii) the name of the individual or party to which the specific confidential communication may be disclosed; and

(e)(1)(A)(iv) a warning that the disclosure will waive the privilege;

(e)(2)(B) the confidential communication is with a criminal justice system victim advocate, and a court determines, after the victim and the defense attorney have been notified and afforded an opportunity to be heard at an in camera review, that:

(e)(3)(B)(i) the probative value of the confidential communication and the interest of justice served by the admission of the confidential communication substantially outweigh the adverse effect of the admission

of the confidential communication on the victim or the relationship between the victim and the criminal justice system victim advocate; or

(e)(3)(B)(ii) the confidential communication is exculpatory evidence, including impeachment evidence.

(e)(2) A request for a hearing and in camera review under paragraph (e)(1)(B) may be made by any party by motion. The court shall give all parties and the victim notice of any hearing and an opportunity to be heard.