

1 **Rule 512. Victim communications.**

2  
3 **(a) Definitions.**

4  
5 **(a)(1)** "Advocacy services" means the same as that term is defined in UCA § 77-38-  
6 403.

7  
8 **(a)(2)** "Confidential communication" means a communication that is intended to be  
9 confidential between a victim and a victim advocate for the purpose of obtaining  
10 advocacy services as defined in UCA § 77-38-403.

11  
12 **(a)(3)** "Criminal justice system victim advocate" means the same as that term is  
13 defined in UCA § 77-38-403.

14  
15 **(a)(4)** "Health care provider" means the same as that term is defined in UCA § 78B-  
16 3-403.

17  
18 **(a)(5)** "Mental health therapist" means the same as that term is defined in UCA §  
19 58-60-102.

20  
21 **(a)(6)** "Victim" means an individual defined as a victim in UCA § 77-38-403.

22  
23 **(a)(7)** "Victim advocate" means the same as that term is defined in UCA § 77-38-  
24 403.

25  
26 **(b) Statement of the Privilege.** A victim communicating with a victim advocate has a  
27 privilege during the victim's life to refuse to disclose and to prevent any other person from  
28 disclosing a confidential communication.

29  
30 **(c) Who May Claim the Privilege.** The privilege may be claimed by:

31  
32 (c)(1) the victim;

33  
34 (c)(2) engaged in a confidential communication, or the guardian or conservator of  
35 the victim engaged in a confidential communication if the guardian or conservator is  
36 not the accused; and-

37  
38 (c)(3) -An individual who is a the victim advocate at the time of a confidential  
39 communication is presumed to have authority during the life of the victim to claim  
40 the privilege on behalf of the victim.

41  
42 **(d) Disclosures That Do Not Waive the Privilege.** The confidential communication may  
43 be disclosed in the following circumstances without waiving the privilege in paragraph (b):

44  
45 (d)(1) the confidential communication is disclosed by a criminal justice system victim  
46 advocate for the purpose of providing advocacy services, and the disclosure is to a

47 law enforcement officer, health care provider, mental health therapist, domestic  
48 violence shelter employee, an employee of the Utah Office for Victims of Crime, a  
49 member of a multidisciplinary team assembled by a Children's Justice Center or law  
50 enforcement agency, or a parent or guardian if the victim is a minor and the parent  
51 or guardian is not the accused;

52  
53 (d)(2) the confidential communication is with a criminal justice system victim  
54 advocate, and the criminal justice system victim advocate must disclose the  
55 confidential communication to a prosecutor under UCA § 77-38-405.

56  
57 **(e) Exceptions to the Privilege.**

58  
59 (e)(1) In addition to waivers under URE 510, the privilege in paragraph (b) does not  
60 apply in the following circumstances:

61  
62 (e)(1)(A) the victim, or the victim's guardian or conservator, if the guardian or  
63 conservator is not the accused, provides written, informed, and voluntary  
64 consent for the disclosure, and the written disclosure contains:

65  
66 (e)(1)(A)(i) the specific confidential communication subject to  
67 disclosure;

68  
69 (e)(1)(A)(ii) the limited purpose of the disclosure;

70  
71 (e)(1)(A)(iii) the name of the individual or party to which the specific  
72 confidential communication may be disclosed; and

73  
74 (e)(1)(A)(iv) a warning that the disclosure will waive the privilege;

75  
76 (e)(1)(B) the confidential communication is required to be disclosed under  
77 Title 62A, Chapter 4a, Child and Family Services, or UCA § 62A-3-305;

78  
79 (e)(1)(C) the confidential communication is evidence of a victim being in clear  
80 and immediate danger to the victim's self or others;

81  
82 (e)(1)(D) the confidential communication is evidence that the victim has  
83 committed a crime, plans to commit a crime, or intends to conceal a crime;

84  
85 (e)(1)(E) the confidential communication is with a criminal justice system  
86 victim advocate, and a court determines, after the victim and the defense  
87 attorney have been notified and afforded an opportunity to be heard at an in  
88 camera review, that:

89  
90 (e)(1)(E)(i) the probative value of the confidential communication and  
91 the interest of justice served by the admission of the confidential  
92 communication substantially outweigh the adverse effect of the

93 admission of the confidential communication on the victim or the  
94 relationship between the victim and the criminal justice system victim  
95 advocate; or

96  
97 (e)(1)(E)(ii) the confidential communication is exculpatory evidence,  
98 including impeachment evidence.

99  
100 (e)(2) A request for a hearing and in camera review under paragraph (e)(1)(E) may  
101 be made by any party by motion. The court shall give all parties and the victim  
102 notice of any hearing and an opportunity to be heard.

103  
104 Effective May/November 1, 20

105  
106 ~~(d) **Exceptions.** An exception to the privilege exists in the following circumstances:~~

107  
108 ~~(d)(1) when the victim, or the victim's guardian or conservator if the guardian or~~  
109 ~~conservator is not the accused, provides written, informed, and voluntary consent~~  
110 ~~for the disclosure, and the written disclosure contains:~~

111  
112 ~~(d)(1)(A) the specific confidential communication subject to disclosure;~~

113  
114 ~~(d)(1)(B) the limited purpose of the disclosure; and~~

115  
116 ~~(d)(1)(C) the name of the individual or party to which the specific confidential~~  
117 ~~communication may be disclosed;~~

118  
119 ~~(d)(2) when the confidential communication is required to be disclosed under Title~~  
120 ~~62A, Chapter 4a, Child and Family Services, or UCA § 62A-3-305;~~

121  
122 ~~(d)(3) when the confidential communication is evidence of a victim being in clear~~  
123 ~~and immediate danger to the victim's self or others;~~

124  
125 ~~(d)(4) when the confidential communication is evidence that the victim has~~  
126 ~~committed a crime, plans to commit a crime, or intends to conceal a crime;~~

127  
128 ~~(d)(5) if the confidential communication is with a criminal justice system victim~~  
129 ~~advocate, the criminal justice system victim advocate may disclose the confidential~~  
130 ~~communication to a parent or guardian if the victim is a minor and the parent or~~  
131 ~~guardian is not the accused, or a law enforcement officer, health care provider,~~  
132 ~~mental health therapist, domestic violence shelter employee, an employee of the~~  
133 ~~Utah Office for Victims of Crime, or member of a multidisciplinary team assembled~~  
134 ~~by a Children's Justice Center or law enforcement agency for the purpose of~~  
135 ~~providing advocacy services;~~

136

137 ~~(d)(6) if the confidential communication is with a criminal justice system victim~~  
138 ~~advocate, the criminal justice system victim advocate must disclose the confidential~~  
139 ~~communication to a prosecutor under UCA § 77-38-405;~~

140  
141 ~~(d)(7) if the confidential communication is with a criminal justice system victim~~  
142 ~~advocate, and a court determines, after the victim and the defense attorney have~~  
143 ~~been notified and afforded an opportunity to be heard at an in-camera review, that:~~

144  
145 ~~(d)(7)(A) the probative value of the confidential communication and the~~  
146 ~~interest of justice served by the admission of the confidential communication~~  
147 ~~substantially outweigh the adverse effect of the admission of the confidential~~  
148 ~~communication on the victim or the relationship between the victim and the~~  
149 ~~criminal justice system victim advocate; or~~

150  
151 ~~(d)(7)(B) the confidential communication is exculpatory evidence, including~~  
152 ~~impeachment evidence.~~

153  
154 ~~Effective July 31, 2019, pursuant to 2019 UT H.J.R. 3 “Joint Resolution Adopting Privilege~~  
155 ~~Under Rules of Evidence.”~~