

Part 4
Criminal Conviction Surcharge Allocation

51-9-401 Surcharge -- Application and exemptions.

- (1)
 - (a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures imposed by the courts.
 - (b) The surcharge shall be:
 - (i) 90% upon conviction of a:
 - (A) felony;
 - (B) class A misdemeanor;
 - (C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;or
 - (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including violation of comparable county or municipal ordinances; or
 - (ii) 35% upon conviction of any other offense, including violation of county or municipal ordinances not subject to the 90% surcharge.
 - (c) The Division of Finance shall allocate the collected 90% surcharge in Subsection (1)(b)(i) in the following order:
 - (i) the first \$30,000 to the General Fund;
 - (ii) the next 4.5% to the Law Enforcement Services Account established in Section 51-9-412; and
 - (iii) the remainder as prescribed in Sections 51-9-403 through 51-9-411.
- (2) The surcharge may not be imposed:
 - (a) upon nonmoving traffic violations;
 - (b) upon court orders when the offender is ordered to perform compensatory service work in lieu of paying a fine; and
 - (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 78A-6-602.
- (3)
 - (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if committed by an adult.
 - (b) However, the surcharge does not include amounts assessed or collected separately by juvenile courts for the Juvenile Restitution Account, which is independent of this part and does not affect the imposition or collection of the surcharge.
- (4) The surcharge under this section shall be imposed in addition to the fine charged for a civil or criminal offense, and no reduction may be made in the fine charged due to the surcharge imposition.
- (5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be authorized and managed by this part rather than attached to particular offenses.

Amended by Chapter 402, 2010 General Session

51-9-402 Division of collected money retained by state treasurer and local governmental collecting entity -- Purpose of surcharge -- Allocation of collections -- Financial information.

- (1) The amount of the surcharge imposed under this part by courts of record shall be collected before any fine and deposited with the state treasurer.
- (2) The amount of the surcharge and the amount of criminal fines, penalties, and forfeitures imposed under this part by courts not of record shall be collected concurrently.
 - (a) As money is collected on criminal fines, penalties, and forfeitures subject to the 90% surcharge, the money shall be divided pro rata so that the local governmental collecting entity retains 53% of the collected money and the state retains 47% of the collected money.
 - (b) As money is collected on criminal fines, penalties, and forfeitures subject to the 35% surcharge, the money shall be divided pro rata so that the local governmental collecting entity retains 74% of the collected money and the state retains 26% of the collected money.
 - (c) The court shall deposit with the state treasurer the surcharge portion of all money as it is collected.
- (3) Courts of record, courts not of record, and administrative traffic proceedings shall collect financial information to determine:
 - (a) the total number of cases in which:
 - (i) a final judgment has been rendered;
 - (ii) surcharges and fines are paid by partial or installment payment; and
 - (iii) the judgment is fulfilled by an alternative method upon the court's order; and
 - (b) the total dollar amounts of surcharges owed to the state and fines owed to the state and county or municipality, including:
 - (i) waived surcharges;
 - (ii) uncollected surcharges; and
 - (iii) collected surcharges.
- (4) The courts of record, courts not of record, and administrative traffic proceedings shall report all collected financial information monthly to the Administrative Office of the Courts. The collected information shall be categorized by cases subject to the 90% and 35% surcharge.
- (5) The purpose of the surcharge is to finance the trust funds and support accounts as provided in this part.
- (6)
 - (a) From the surcharge, the Division of Finance shall allocate in the manner and for the purposes described in Sections 51-9-403 through 51-9-411.
 - (b) Allocations shall be made on a fiscal year basis.
- (7) The provisions of this section and Section 51-9-401 may not impact the distribution and allocation of fines and forfeitures imposed in accordance with Sections 23-14-13, 78A-5-110, and 78A-7-120.

Amended by Chapter 342, 2011 General Session

51-9-403 EMS share of surcharge -- Accounting.

- (1) The Division of Finance shall allocate 14% of the collected surcharge established in Section 51-9-401, but not to exceed the amount appropriated by the Legislature, to the Emergency Medical Services (EMS) Grants Program Account under Section 26-8a-207.
- (2) The amount shall be recorded by the Department of Health as a dedicated credit.

Renumbered and Amended by Chapter 382, 2008 General Session

51-9-404 Crime Victims Reparations Fund -- Public Safety Support Account -- Distribution of surcharge amounts.

- (1) In this section:
 - (a) "Reparation fund" means the Crime Victim Reparations Fund.
 - (b) "Safety account" means the Public Safety Support Account.
- (2)
 - (a) There is created an expendable special revenue fund known as the "Crime Victim Reparations Fund" to be administered and distributed as provided in this part by the Utah Office for Victims of Crime under Title 63M, Chapter 7, Part 5, Utah Office for Victims of Crime, in cooperation with the Division of Finance.
 - (b) Money deposited in this fund is for victim reparations, other victim services, and, as appropriated, for administrative costs of the Office for Victims of Crime in Title 63M, Chapter 7, Part 5, Utah Office for Victims of Crime.
- (3)
 - (a) There is created a restricted account in the General Fund known as the "Public Safety Support Account" to be administered and distributed by the Department of Public Safety in cooperation with the Division of Finance as provided in this part.
 - (b) Money deposited in this account shall be appropriated to:
 - (i) the Division of Peace Officer Standards and Training (POST) as described in Title 53, Chapter 6, Peace Officer Standards and Training Act; and
 - (ii) the Office of the Attorney General for the support of the Utah Prosecution Council established in Title 67, Chapter 5a, Utah Prosecution Council, and the fulfillment of the council's duties.
- (4) The Division of Finance shall allocate from the collected surcharge established in Section 51-9-401:
 - (a) 35% to the Crime Victim Reparations Fund;
 - (b) 18.5% to the safety account for POST, but not to exceed the amount appropriated by the Legislature; and
 - (c) 3% to the safety account for support of the Utah Prosecution Council, but not to exceed the amount appropriated by the Legislature.
- (5)
 - (a) In addition to the funding provided by other sections of this part, a percentage of the income earned by inmates working for correctional industries in a federally certified private sector/ prison industries enhancement program shall be deposited in the Crime Victim Reparations Fund.
 - (b) The percentage of income deducted from inmate pay under Subsection (5)(a) shall be determined by the executive director of the Department of Corrections in accordance with the requirements of the private sector/prison industries enhancement program.
- (6)
 - (a) In addition to other money collected from the surcharge, judges are encouraged to, and may in their discretion, impose additional reparations to be paid into the Crime Victim Reparations Fund by convicted criminals.
 - (b) The additional discretionary reparations may not exceed the statutory maximum fine permitted by Title 76, Utah Criminal Code, for that offense.

Amended by Chapter 56, 2014 General Session

51-9-405 Substance Abuse Prevention Account established -- Funding -- Uses.

- (1) There is created a restricted account within the General Fund known as the Substance Abuse Prevention Account.

- (2)
- (a) The Division of Finance shall allocate to the Substance Abuse Prevention Account from the collected surcharge established in Section 51-9-401:
 - (i) 2.5% for the juvenile court, but not to exceed the amount appropriated by the Legislature; and
 - (ii) 2.5% for the State Board of Education, but not to exceed the amount appropriated by the Legislature.
 - (b) The juvenile court shall use the allocation to pay for compensatory service programs required by Subsection 78A-6-117(2)(m).
 - (c) The State Board of Education shall use the allocation in public school programs for:
 - (i) substance abuse prevention and education;
 - (ii) substance abuse prevention training for teachers and administrators; and
 - (iii) district and school programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

Amended by Chapter 144, 2016 General Session

51-9-406 Victims of Domestic Violence Services Account established -- Funding -- Uses.

- (1) There is created a restricted account in the General Fund known as the Victims of Domestic Violence Services Account.
- (2)
 - (a) The Division of Finance shall allocate to the Victims of Domestic Violence Services Account from the collected surcharge established in Section 51-9-401:
 - (i) 4% for the Division for Domestic Violence Services, but not to exceed the amount appropriated by the Legislature; and
 - (ii) .5% for the Office of the Attorney General, but not to exceed the amount appropriated by the Legislature.
 - (b) The attorney general shall use the allocation for training municipal and county attorneys in the prosecution of domestic violence offenses.

Renumbered and Amended by Chapter 382, 2008 General Session

51-9-407 Intoxicated Driver Rehabilitation Account share of surcharge.

The Division of Finance shall allocate 7.5% of the collected surcharge established in Section 51-9-401, but not to exceed the amount appropriated by the Legislature, to the Intoxicated Driver Rehabilitation Account created in Section 62A-15-502.5.

Amended by Chapter 278, 2010 General Session

51-9-408 Children's Legal Defense Account.

- (1) There is created a restricted account within the General Fund known as the Children's Legal Defense Account.
- (2) The purpose of the Children's Legal Defense Account is to provide for programs that protect and defend the rights, safety, and quality of life of children.
- (3) The Legislature shall appropriate money from the account for the administrative and related costs of the following programs:

- (a) implementing the Mandatory Educational Course on Children's Needs for Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4, 30-3-10.3, 30-3-11.3, and 30-3-15.3, and the Mediation Program - Child Custody or Parent-time;
 - (b) implementing the use of guardians ad litem as provided in Sections 78A-2-703, 78A-2-705, 78A-6-902, and 78B-3-102; the training of attorney guardians ad litem and volunteers as provided in Section 78A-6-902; and termination of parental rights as provided in Sections 78A-6-117 and 78A-6-118, and Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act. This account may not be used to supplant funding for the guardian ad litem program in the juvenile court as provided in Section 78A-6-902;
 - (c) implementing and administering the Expedited Parent-time Enforcement Program as provided in Section 30-3-38; and
 - (d) implementing and administering the Divorce Education for Children Program.
- (4) The following withheld fees shall be allocated only to the Children's Legal Defense Account and used only for the purposes provided in Subsections (3)(a) through (d):
- (a) the additional \$10 fee withheld on every marriage license issued in the state of Utah as provided in Section 17-16-21; and
 - (b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.
- (5) The Division of Finance shall allocate the money described in Subsection (4) from the General Fund to the Children's Legal Defense Account.
- (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30 of any fiscal year shall lapse into the General Fund.

Amended by Chapter 267, 2014 General Session

51-9-409 Guardian Ad Litem Services Account established -- Funding -- Uses.

- (1)
- (a) There is created in the General Fund a restricted account known as the Guardian Ad Litem Services Account, for the purpose of funding the Office of Guardian Ad Litem, in accordance with the provisions of Sections 78A-6-901 and 78A-6-902.
 - (b) The account shall be funded by:
 - (i) the donation described in Subsection 41-1a-422(1)(a)(i)(F); and
 - (ii) the amount allocated to the account as provided in Subsections (2) and (3).
- (2) Except as provided in Subsection (3), the Division of Finance shall allocate 1.75% of the collected surcharge established in Section 51-9-401 to the Guardian Ad Litem Services Account.
- (3) The amount allocated under Subsection (2) may not exceed the amount appropriated to the Guardian Ad Litem Services Account by the Legislature.

Amended by Chapter 303, 2011 General Session

51-9-410 Statewide Warrant Operations Account -- Share of surcharge -- Use.

- (1) There is created a restricted account within the General Fund known as the Statewide Warrant Operations Account.
- (2) The Division of Finance shall allocate 2.5% of the collected surcharge established under Section 51-9-401, but not to exceed the amount appropriated by the Legislature, to this account.

- (3) The Legislature may appropriate money from the restricted account to the Department of Public Safety to pay for statewide warrant system costs incurred under Section 53-10-208.

Renumbered and Amended by Chapter 382, 2008 General Session

51-9-411 Law Enforcement Operations Account -- Share of surcharge -- Uses.

- (1) As used in this section:
 - (a) "Account" means the Law Enforcement Operations Account.
 - (b) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
 - (c) "Law enforcement agency" means a state or local law enforcement agency.
 - (d) "Other appropriate agency" means a state or local government agency, or a nonprofit organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug activity and related criminal activity by:
 - (i) programs, including education, prevention, treatment, and research programs; and
 - (ii) enforcement of laws regarding illegal drugs.
- (2) There is created a restricted account within the General Fund known as the Law Enforcement Operations Account.
- (3)
 - (a) The Division of Finance shall allocate the balance of the collected surcharge under Section 51-9-401 that is not allocated under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, to the account, to be appropriated by the Legislature.
 - (b) Money in the account shall be appropriated to the commission for implementing law enforcement operations and programs related to reducing illegal drug activity and related criminal activity as listed in Subsection (5).
 - (c) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.
 - (d) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.
- (4)
 - (a) The commission shall allocate grants of funds from the account for the purposes under Subsection (5) to state, local, or multijurisdictional law enforcement agencies and other appropriate agencies.
 - (b) The grants shall be made by an application process established by the commission in accordance with Subsection (6).
- (5)
 - (a) The first priority of the commission is to annually allocate not more than \$2,500,000, depending upon funding available from other sources, to directly fund the operational costs of state and local law enforcement agencies' drug or crime task forces, including multijurisdictional task forces.
 - (b) The second priority of the commission is to allocate grants for specified law enforcement agency functions and other agency functions as the commission finds appropriate to more effectively reduce illegal drug activity and related criminal activity, including providing education, prevention, treatment, and research programs.
- (6)
 - (a) In allocating grants and determining the amount of the grants, the commission shall consider:

- (i) the demonstrated ability of the agency to appropriately use the grant to implement the proposed functions and how this function or task force will add to the law enforcement agency's current efforts to reduce illegal drug activity and related criminal activity; and
 - (ii) the agency's cooperation with other state and local agencies and task forces.
- (b) Agencies qualify for a grant only if they demonstrate compliance with all reporting and policy requirements applicable under this section and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential grant recipient.
- (7) Recipient agencies may only use grant money after approval or appropriation by the agency's governing body, and a determination that the grant money is nonlapsing.
 - (8) A recipient law enforcement agency may use funds granted under this section only for the purposes stated by the commission in the grant.
 - (9) For each fiscal year, any law enforcement agency that receives a grant from the commission under this section shall prepare, and file with the commission and the state auditor, a report in a form specified by the commission. The report shall include the following regarding each grant:
 - (a) the agency's name;
 - (b) the amount of the grant;
 - (c) the date of the grant;
 - (d) how the grant has been used; and
 - (e) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that all grant funds were used for law enforcement operations and programs approved by the commission and that relate to reducing illegal drug activity and related criminal activity, as specified in the grant.

Amended by Chapter 191, 2016 General Session

51-9-412 Law Enforcement Services Account -- Funding -- Uses.

- (1) As used in this section:
 - (a) "Account" means the Law Enforcement Services Account.
 - (b) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
 - (c) "Halfway house" means a facility that houses parolees upon release from prison or houses probationers who have violated the terms of their probation.
 - (d) "Law enforcement agency" means a local law enforcement agency.
 - (e) "Parole violator center" means a facility that houses parolees who have violated the conditions of their parole agreement.
- (2) There is created a restricted account within the General Fund known as the "Law Enforcement Services Account."
- (3)
 - (a) The Division of Finance shall allocate funds from the collected surcharge in accordance with Subsection 51-9-401(1)(c) to the account, but not to exceed the amount appropriated by the Legislature.
 - (b) Money in the account shall be appropriated to the commission to administer and distribute to law enforcement agencies providing services directly to areas with halfway houses or parole violator centers, or both.
- (4) The commission shall allocate funds from the account to local law enforcement agencies on a pro-rata basis determined by:
 - (a) the average daily number of occupied beds in a halfway house in each agency's jurisdiction for increased enforcement in areas with halfway houses;

- (b) the average daily number of occupied beds in a parole violator center in each agency's jurisdiction; or
 - (c) both Subsections (4)(a) and (b).
- (5) A law enforcement agency may use funds received under this section only for the purposes stated in this section.
- (6) For each fiscal year, any law enforcement agency that receives funds from the commission under this section shall prepare, and file with the commission and the state auditor, a report in a form specified by the commission. The report shall include the following:
- (a) the agency's name;
 - (b) the amount received;
 - (c) how the funds were used, including the impact on crime reduction efforts in areas with halfway houses or parole violator centers, or both; and
 - (d) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel that all funds were used for law enforcement operations related to reducing criminal activity in areas with halfway houses or parole violator centers, or both.

Amended by Chapter 191, 2016 General Session