

26 77-38a-102, as last amended by Laws of Utah 2015, Chapter 147

27 77-38a-302, as last amended by Laws of Utah 2013, Chapter 74

28 ~~H→ [77-38a-404, as last amended by Laws of Utah 2011, Chapters 131 and 208] ←H~~



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

31 Section 1. Section 77-27-5 is amended to read:

32 **77-27-5. Board of Pardons and Parole authority.**

33 (1) (a) The Board of Pardons and Parole shall determine by majority decision when and
34 under what conditions, subject to this chapter and other laws of the state, persons committed to
35 serve sentences in class A misdemeanor cases at penal or correctional facilities which are under
36 the jurisdiction of the Department of Corrections, and all felony cases except treason or
37 impeachment or as otherwise limited by law, may be released upon parole, pardoned, ordered
38 to pay restitution, or have their fines, forfeitures, or restitution remitted, or their sentences
39 commuted or terminated.

40 (b) The board may sit together or in panels to conduct hearings. The chair shall
41 appoint members to the panels in any combination and in accordance with rules promulgated
42 by the board, except in hearings involving commutation and pardons. The chair may
43 participate on any panel and when doing so is chair of the panel. The chair of the board may
44 designate the chair for any other panel.

45 (c) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole,
46 pardon, or commutation granted or sentence terminated, except after a full hearing before the
47 board or the board's appointed examiner in open session. Any action taken under this
48 subsection other than by a majority of the board shall be affirmed by a majority of the board.

49 (d) A commutation or pardon may be granted only after a full hearing before the board.

50 (e) The board may determine restitution as provided in Section 77-27-6 and Subsection
51 77-38a-302(5)(d)~~(ii)~~(iii)(A).

52 (2) (a) In the case of original parole grant hearings, rehearings, and parole revocation
53 hearings, timely prior notice of the time and location of the hearing shall be given to the
54 defendant, the county or district attorney's office responsible for prosecution of the case, the
55 sentencing court, law enforcement officials responsible for the defendant's arrest and
56 conviction, and whenever possible, the victim or the victim's family.

305 method of payment; and

306 (vi) other circumstances that the court determines may make restitution inappropriate.

307 ~~[(d) (i) Except as provided in Subsection (5)(d)(ii), the court shall determine complete~~
 308 ~~restitution and court-ordered restitution, and shall make all restitution orders at the time of~~
 309 ~~sentencing if feasible, otherwise within one year after sentencing.]~~

310 (d) (i) The prosecuting agency shall submit all requests for complete restitution and
 311 court ordered restitution to the court at the time of sentencing if feasible, otherwise within one
 312 year after sentencing.

313 (ii) If a defendant is placed on probation pursuant to Section 77-18-1:

314 (A) the court shall determine complete restitution and court ordered restitution; and

315 (B) the time period for determination of complete restitution and court ordered
 316 restitution may be extended by the court upon a finding of good cause, but may not exceed the
 317 period of the probation term served by the defendant.

318 (iii) If the defendant is committed to prison:

319 ~~[(ii) Any]~~ (A) any pecuniary damages that have not been determined by the court
 320 within one year after sentencing may be determined by the Board of Pardons and Parole[-]; and

321 ~~[(e) The]~~ (B) the Board of Pardons and Parole may, within one year after sentencing,
 322 refer an order of judgment and commitment back to the court for determination of restitution.

323 **H→ [Section 6. Section 77-38a-404 is amended to read:**

324 ~~———— 77-38a-404. Priority.~~

325 ~~———— (1) Restitution payments made pursuant to a court order shall be disbursed to victims~~
 326 ~~within 60 days of receipt from the defendant by the court or department provided:~~

327 ~~———— (a) the victim has complied with Subsection 77-38a-203(1)(b);~~

328 ~~———— (b) if the defendant has tendered a negotiable instrument, funds from the financial~~
 329 ~~institution are actually received; and~~

330 ~~———— (c) the payment to the victim is at least \$5, unless the payment is the final payment.~~

331 ~~———— (2) If restitution to more than one person, agency, or entity is required at the same time,~~
 332 ~~the department shall establish the following priorities of payment, except as provided in~~
 333 ~~Subsection (4):~~

334 ~~———— (a) the crime victim;~~

335 ~~———— (b) the Utah Office for Victims of Crime;⊕~~

336 ~~— (c) any other government agency which has provided reimbursement to the victim as a~~
337 ~~result of the offender's criminal conduct;~~
338 ~~— (d) the person, entity, or governmental agency that has offered and paid a reward under~~
339 ~~Section 76-3-201.1 or 78A-6-117;~~
340 ~~— (e) any insurance company which has provided reimbursement to the victim as a result~~
341 ~~of the offender's criminal conduct; and~~
342 ~~— (f) any county correctional facility to which the defendant is required to pay restitution~~
343 ~~under Subsection 76-3-201(6).~~
344 ~~— (3) Restitution ordered under Subsection (2)(f) is paid after criminal fines and~~
345 ~~surcharges are paid.~~
346 ~~— (4) If the offender is required under Section 53-10-404 to reimburse the department for~~
347 ~~the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority after~~
348 ~~restitution to the crime victim under Subsection (2)(a).~~
349 ~~— (5) All money collected for court-ordered obligations from offenders by the department~~
350 ~~will be applied:~~
351 ~~— (a) first, to victim restitution[, except the];~~
352 ~~— (b) second, to any current and past due amount of \$30 per month required to be~~
353 ~~collected by the department under Section 64-13-21, if applicable; and~~
354 ~~— [(b) second] (c) third, if applicable, to the cost of obtaining a DNA specimen under~~
355 ~~Subsection (4).~~
356 ~~— (6) Restitution owed to more than one victim shall be disbursed to each victim~~
357 ~~according to the percentage of each victim's share of the total restitution order.] ←H~~