HB0562S01 compared with HB0562

~~{Omitted text}~~ shows text that was in HB0562 but was omitted in HB0562S01
inserted text shows text that was not in HB0562 but was inserted into HB0562S01

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Law Enforcement and Criminal Justice Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor:

LONG TITLE

General Description:

This bill modifies provisions related to law enforcement and criminal justice.

Highlighted Provisions:

This bill:

- modifies definitions;
- {**~~provides that the Office of State Debt Collection has the authority to collect civil accounts receivable or a civil judgment of restitution and interest thereon;~~**}
- {**~~provides that administrative garnishments also apply to a debtor's property or wages that are under control of a third party;~~**}
- {**~~requires the Office of State Debt Collection to provide an accounting of the unpaid balance of a defendant's criminal accounts receivable at the time of termination of the defendant's sentence;~~**}
- {**~~provides repayment procedures for any unpaid balance of a defendant's criminal accounts receivable upon termination of a sentence;~~**}
- provides that a pretrial {~~hearing~~ } examination constitutes a material change in circumstances;

HB0562

- removes {~~references~~ } provisions relating to unsecured bonds;
- adds requirements for temporary pretrial status orders of detention;
- provides that a request for a pretrial release at an initial appearance does not constitute a pretrial detention hearing;
- requires a court to make findings of fact when making a determination regarding pretrial release;
- adds a financial condition schedule to aid a court in determining the amount of a fixed financial condition;
- {~~**requires a prosecuting attorney to include in a motion for pretrial detention any known information that is favorable to the individual that is the subject of the motion;**~~}
- requires {~~the release of or~~ } a {~~financial condition to be fixed for an individual~~ } judge to appoint another judge to conduct a pretrial detention hearing if the initial judge is unable to hold a pretrial detention hearing {~~is not held within 21 days of the individual's first appearance~~} before a certain deadline;
- {~~**requires that evidence in a pretrial detention hearing shall not be made by proffer, unless otherwise agreed on the record;**~~}
- provides for required procedures when a no bail hold is requested; and
- {~~**provides that certain Board of Pardons and Parole decisions on restitution are final and not subject to judicial review;**~~}
- {~~**codifies order of restitution procedures that apply to certain offenders sentenced before July 1, 2021;**~~}
- {~~**provides procedures accounting and payment of restitution owed to various state governmental entities;**~~}
- {~~**permits a sentencing court to authorize the deposit of funds in certain interest-bearing accounts when distribution to a victim is pending;**~~}
- {~~**permits the Board of Pardons and Parole to order recovery of fees incurred on behalf of a sentenced offender in addition to the existing ability to recover costs;**~~}
- {~~**makes coordinating modifications related to docket entry and interest assessments;**~~}
- {~~**permits a court to set restitution for a juvenile sentenced to prison;**~~}
- {~~**modifies the duties of the Utah Indigent Defense Commission and the Office of Indigent Defense Services;**~~}
- {~~**extends the date of the verification of indigency pilot program;**~~}

- {~~modifies duties and reporting requirements related to the verification of indigency pilot program;~~}
- {~~modifies procedures to permit a prosecuting attorney to make a motion to request that a court require a minor convicted of aggravated murder to be housed in a prison or jail, rather than in a juvenile secure care facility; and~~}
- makes technical and grammatical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

AMENDS:

~~{63A-3-502 , as last amended by Laws of Utah 2024, Chapter 398 , as last amended by Laws of Utah 2024, Chapter 398}~~

~~{63A-3-507 , as last amended by Laws of Utah 2024, Chapter 158 , as last amended by Laws of Utah 2024, Chapter 158}~~

~~{77-18-114 , as last amended by Laws of Utah 2024, Chapter 330 , as last amended by Laws of Utah 2024, Chapter 330}~~

77-20-102 , as last amended by Laws of Utah 2023, Chapter 408 , as last amended by Laws of Utah 2023, Chapter 408

77-20-205 , as last amended by Laws of Utah 2024, Chapters 187, 434 , as last amended by Laws of Utah 2024, Chapters 187, 434

77-20-206 , as enacted by Laws of Utah 2021, Second Special Session, Chapter 4 , as enacted by Laws of Utah 2021, Second Special Session, Chapter 4

77-20-207 , as last amended by Laws of Utah 2023, Chapter 408 , as last amended by Laws of Utah 2023, Chapter 408

77-20-402 , as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4 , as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4

~~{77-27-5 , as last amended by Laws of Utah 2024, Chapters 145, 187 and 208 , as last amended by Laws of Utah 2024, Chapters 145, 187 and 208}~~

~~{77-27-6.1 , as last amended by Laws of Utah 2024, Chapter 330 , as last amended by Laws of Utah 2024, Chapter 330}~~

~~{77-32b-103 , as last amended by Laws of Utah 2024, Chapter 389 , as last amended by Laws of Utah 2024, Chapter 389}~~

~~{77-38b-202 , as last amended by Laws of Utah 2024, Chapter 330 , as last amended by Laws of Utah 2024, Chapter 330}~~

~~{77-38b-301 , as last amended by Laws of Utah 2023, Chapter 113 , as last amended by Laws of Utah 2023, Chapter 113}~~

~~{78A-2-214 , as last amended by Laws of Utah 2024, Chapter 398 , as last amended by Laws of Utah 2024, Chapter 398}~~

~~{78B-22-301 , as last amended by Laws of Utah 2020, Chapters 371, 392 , as last amended by Laws of Utah 2020, Chapters 371, 392}~~

~~{78B-22-404 , as last amended by Laws of Utah 2024, Chapter 193 , as last amended by Laws of Utah 2024, Chapter 193}~~

~~{78B-22-452 , as last amended by Laws of Utah 2024, Chapter 193 , as last amended by Laws of Utah 2024, Chapter 193}~~

~~{78B-22-1001 , as enacted by Laws of Utah 2021, Second Special Session, Chapter 4 , as enacted by Laws of Utah 2021, Second Special Session, Chapter 4}~~

~~{80-6-507 , as last amended by Laws of Utah 2022, Chapter 135 , as last amended by Laws of Utah 2022, Chapter 135}~~

ENACTS:

77-20-205.5 , Utah Code Annotated 1953 , Utah Code Annotated 1953

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

~~{Section 1. Section **63A-3-502** is amended to read: }~~

63A-3-502. Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with:

(a) the requirements of this chapter; and

(b) any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

(e) provide information, training, and technical assistance to each state agency on various collection-related topics;

(f) write an inclusive receivables management and collection manual for use by each state agency;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or the office's designee;

(o) be a real party in interest for:

(i) an account receivable referred to the office by any state agency; and

(ii) a civil judgment of restitution entered on a civil judgment docket by a court;

(p) allocate money collected for a judgment entered on the civil judgment docket under Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110;

(q) if a criminal accounts receivable is transferred to the office under Subsection 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts receivable;

(r) provide a debtor online access to the debtor's accounts receivable or criminal accounts receivable in accordance with Section 63A-3-502.5;

(s) establish a written policy for each of the following:

(i) the settling of an accounts receivable, including any amount of restitution owed to a victim in a civil judgment of restitution if the victim approves of the settlement;

(ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if the debtor has a balance on another debt as part of an accounts receivable or criminal accounts receivable;

(iii) setting a payment deadline for settlement agreements and for obtaining an extension of a settlement agreement deadline; and

(iv) reducing administrative costs when a settlement has been reached;

(t) consult with a state agency on whether:

(i) the office may agree to a settlement for an amount that is less than the debtor's principal amount; and

(ii) the state agency may retain authority to negotiate a settlement with a debtor; and

(u) provide the terms and conditions of any payment arrangement that the debtor has made with a state agency or the office when:

(i) the payment arrangement is created; or

(ii) the debtor requests a copy of the terms and conditions.

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting the state's receivables;

(d) contract with private or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial declaration form described in Section 77-38b-204;

(g) at rates authorized by the Legislature or set in statute, assess and collect the following interest and fees:

(i) a fee to cover the administrative costs of collection on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

(h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;

(j) for a case that is referred to the office or in which the office is a judgment creditor, file a motion or other document related to the office or the accounts receivable in that case, including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;

(k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record;

(m) enter into written agreements with other governmental agencies to obtain and share information for the purpose of collecting state accounts receivable; and

(n) collect accounts receivable for a political subdivision of the state if the political subdivision enters into an agreement or contract with the office under Title 11, Chapter 13, Interlocal Cooperation Act, for the office to collect the political subdivision's accounts receivable.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor under Subsection (4)(l):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any individual employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6)

(a) The office shall have authority to collect a civil accounts receivable or a civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 77-18-114(1) or (2).

(b) The office may not assess:

(i) the interest charge established by the office under Subsection [~~(4)~~] (4)(g)(iii)(B) on an account receivable that is subject to the postjudgment interest rate established by Section 15-1-4; and

(ii) an interest charge on [~~a~~] an amount from a criminal accounts receivable [~~that is transferred to the office under Subsection 77-32b-103(2)(a)(ii)~~] until the amount is entered on the civil judgment docket.

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or the office's designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report the state's receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of the state agency's receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) All interest, fees, and other amounts authorized to be collected by the office under Subsection (4)(g):

(a) are penalties that may be charged by the office;

(b) do not require an order from a court for the office to assess or collect;

(c) are not compensation for actual pecuniary loss;

(d) for a civil accounts receivable:

(i) begin to accrue on the day on which the civil accounts receivable is entered on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) may be collected as part of the civil accounts receivable;

(e) for a civil judgment of restitution:

(i) begin to accrue on the day on which the civil judgment of restitution is entered on the civil judgment docket under Subsection 77-18-114(1); and

(ii) may be collected as part of the civil judgment of restitution;

(f) for all other accounts receivable:

(i) begin to accrue on the day on which the accounts receivable is transferred to the office, even if there is no court order on the day on which the accounts receivable is transferred; and

(ii) may be collected as part of the accounts receivable; and

(g) may be waived by:

(i) the office; or

(ii) if the interest, fee, or other amount is charged in error, the court.

~~{Section 2. Section **63A-3-507** is amended to read: }~~

63A-3-507. Administrative garnishment order.

(1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue an administrative garnishment order against the debtor's personal property, including wages, in the possession or under the control of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if:

(a) the order is signed by the director or the director's designee; and

(b) the underlying debt is for:

(i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or

(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment; and

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property;

(b) identify the defendant, including the defendant's name and last known address;

(c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(d) state where the garnishee may deliver property.

(5) The office may, in the office's discretion, include in an administrative garnishment order:

(a) the last four digits of the defendant's Social Security number;

(b) the last four digits of the defendant's driver license number;

(c) the state in which the defendant's driver license was issued;

(d) one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;

(iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:

(A) the nature, location, and estimated value of the property; and

(B) the name, address, and telephone number of the person who has possession or control of the property;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which any previously served writs of continuing garnishment were served; and

(vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.

(6)

(a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount determined by the court.

(c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

(i)

(A) the value of the judgment; or

(B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(7)

(a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.

(b) The office shall attach to a motion under Subsection (7)(a) a statement that the office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(9)

(a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (9)(a) discharges the debtor for the amount paid.

(10) A garnishee may deduct from the property any liquidated claim against the defendant.

(11)

(a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (11)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii)

(A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(12)

(a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to, or for the benefit of, the defendant from the date of service upon the garnishee until the earliest of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by a court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (13);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (13) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(13) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(14)

(a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.

(b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:

(i) does not exceed the maximum amount allowed under Subsection (13); and

(ii) is based on:

(A) earnings information received by the office directly from the Department of Workforce Services; or

(B) previous garnishments issued to the garnishee by the office where payments were received at a consistent dollar amount.

(c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

(i) for one debtor;

(ii) from the same employer;

(iii) for two or more consecutive quarters; and

(iv) received within the last six months.

(15)

(a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

(i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and

(ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.

(b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

(16)

(a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

(i) $10 per garnishment order, for a noncontinuing garnishment order; and

(ii) $25, as a one-time fee, for a continuing garnishment order.

(b) A garnishee may deduct the amount of the garnishee fee from the amount to be remitted to the office under the administrative garnishment order, if the amount to be remitted exceeds the amount of the fee.

(c) If the amount to be remitted to the office under an administrative garnishment order does not exceed the amount of the garnishee fee:

(i) the garnishee shall notify the office that the amount to be remitted does not exceed the amount of the garnishee fee; and

(ii)

(A) the garnishee under a noncontinuing garnishment order shall return the administrative garnishment order to the office, and the office shall pay the garnishee the garnishee fee; or

(B) the garnishee under a continuing garnishment order shall delay remitting to the office until the amount to be remitted exceeds the garnishee fee.

(d) If, upon receiving the administrative garnishment order, the garnishee does not possess or control any property, including money or wages, in which the defendant has an interest:

(i) the garnishee under a continuing or noncontinuing garnishment order shall, except as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office, and the office shall pay the garnishee the applicable garnishee fee; or

(ii) if the garnishee under a continuing garnishment order believes that the garnishee will, within 90 days after issuance of the continuing garnishment order, come into possession or control of property in which the defendant owns an interest, the garnishee may retain the garnishment order and deduct the garnishee fee for a continuing garnishment once the amount to be remitted exceeds the garnishee fee.

(17) Section 78A-2-216 does not apply to an administrative garnishment order issued under this section.

(18) An administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.

(19) If the office issues an administrative garnishment order under this section to collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the administrative garnishment order shall be construed as a continuation of the criminal action for which the civil

accounts receivable or civil judgment of restitution arises if the amount owed is from a fine, fee, or restitution for the criminal action.

~~{Section 3. Section **77-18-114** is amended to read: }~~

77-18-114. Unpaid balance at termination of sentence -- Transfer of collection responsibility -- Past due account -- Notice -- Account or judgment paid in full -- Effect of civil accounts receivable and civil judgment of restitution.

(1) When a defendant's sentence is terminated by law or by the decision of the court or the board:

(a) the board shall provide notice to the Office of State Debt Collection, and the Office of State Debt Collection shall provide an accounting of the unpaid balance of the defendant's criminal accounts receivable to the court if the defendant was on parole or incarcerated at the time of termination; and

(b) except as provided in Subsection (1)(b)(iv), Subsection 77-18-118(1)(g), and Subsection 77-27-6.1(6)(f), within 90 days after the day on which a defendant's sentence is terminated, the court shall:

(i) enter an order for a civil accounts receivable and a civil judgment of restitution for a defendant on the civil judgment docket;

(ii) transfer the responsibility of collecting the civil accounts receivable and the civil judgment of restitution to the Office of State Debt Collection;[~~and~~]

(iii) identify in the order under this Subsection (1):

(A) the Office of State Debt Collection as a judgment creditor for the civil accounts receivable and the civil judgment of restitution; and

(B) the victim as a judgment creditor for the civil judgment of restitution[~~.~~] ; and

(iv) if the restitution is owed to the State Tax Commission, Department of Workforce Services, or the Department of Health and Human Services, upon request by the prosecutor or victim:

(A) enter an order for the civil accounts receivable and a civil judgment of restitution for a defendant on the civil judgment docket;

(B) transfer the responsibility of collecting the civil judgment of restitution to each entity described in Subsection (1)(b)(iv) that is owed restitution, with the balance owed to each entity assigned to each entity respectively if applicable;

(C) identify each entity that is assigned responsibility for collecting a civil judgment of restitution under Subsection (1)(b)(iv)(B) as a judgment creditor for the civil judgment of restitution; and

(D) identify the Office of State Debt Collection as a judgment creditor for any civil accounts receivable and transfer the responsibility of collecting the civil accounts receivable to the Office of State Debt Collection.

(2) If a criminal accounts receivable for the defendant is more than 90 days past due and the court has ordered that a defendant does not owe restitution to any victim, or the time period for entering an order for restitution has expired under Section 77-38b-205 and the court has not ordered restitution, the court may:

(a) enter an order for a civil accounts receivable for the defendant on the civil judgment docket;

(b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as a judgment creditor for the civil accounts receivable; and

(c) transfer the responsibility of collecting the civil accounts receivable to the Office of State Debt Collection.

(3) An order for a criminal accounts receivable is no longer in effect after the court enters an order for a civil accounts receivable or a civil judgment of restitution under Subsection (1) or (2).

(4) The court shall provide notice to the Office of State Debt Collection and the prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the civil judgment of restitution.

(5) The Office of State Debt Collection shall notify the court when a civil judgment of restitution or a civil accounts receivable is satisfied.

(6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil accounts receivable on the civil judgment docket, or when restitution is recorded as an order for a civil judgment of restitution on the civil judgment docket, the order:

(a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

(b) may be collected by any means authorized by law for the collection of a civil judgment.

(7) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of restitution are not subject to the civil statutes of limitation and expire only upon payment in full.

(8)

(a) If a defendant asserts that a payment was made to a victim or third party for a civil judgment of restitution, or enters into any other transaction that does not involve the Office of State Debt Collection, and the defendant asserts that the payment results in a credit [~~towards~~] toward the civil judgment of restitution for the defendant:

(i) the defendant shall provide notice to the Office of State Debt Collection and the prosecuting attorney within 30 days after the day on which the payment or other transaction is made; and

(ii) the payment may only be credited towards the civil judgment of restitution and does not affect any other amount owed to the Office of State Debt Collection under Section 63A-3-502.

(b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party from providing notice of a payment towards a civil judgment of restitution to the Office of State Debt Collection.

Section 1. Section **77-20-102** is amended to read:

77-20-102. Definitions.

As used in this chapter:

(1) "Bail" means pretrial release.

(2) "Bail bond" means the same as that term is defined in Section 31A-35-102.

(3) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(4) "Bail bond producer" means the same as that term is defined in Section 31A-35-102.

(5) "County jail official" means a county sheriff or the county sheriff's designee.

(6) "Exonerate" means to release and discharge a surety, or a surety's bail bond producer, from liability for a bail bond.

(7) "Financial condition" means any monetary condition that is imposed to secure an individual's pretrial release.

(8) "Forfeiture" means:

(a) to divest an individual or surety from a right to the repayment of monetary bail; or

(b) to enforce a pledge of assets or real or personal property from an individual or surety used to secure an individual's pretrial release.

(9) "Magistrate" means the same as that term is defined in Section 77-1-3.

(10)

(a) "Material change in circumstances" includes:

(i) a preliminary {~~hearing~~} examination as defined in Rule 7, Utah Rules of Civil Procedure;

(ii) an unreasonable delay in prosecution that is not attributable to the defendant;

[~~(ii)~~] (iii) a material change in the risk that an individual poses to a victim, a witness, or the public if released due to the passage of time or any other relevant factor;

[~~(iii)~~] (iv) a material change in the conditions of release or the services that are reasonably available to the defendant if released;

[~~(iv)~~] (v) a willful or repeated failure by the defendant to appear at required court appearances; or

[~~(v)~~] (vi) any other material change related to the defendant's risk of flight or danger to any other individual or to the community if released.

(b) "Material change in circumstances" does not include any fact or consideration that is known at the time that the pretrial status order is issued.

(11) "Monetary bail" means a financial condition.

(12) "No bail hold" means an order with the restrictions described in Subsection {~~77-20-102(17)(c)~~} (18)(c).

[~~(12)~~] (13) "Own recognizance" means the release of an individual without any condition of release other than the individual's promise to:

(a) appear for all required court proceedings; and

(b) not commit any criminal offense.

[~~(13)~~] (14) "Pretrial detention hearing" means a hearing described in Section 77-20-206.

[~~(14)~~] (15) "Pretrial release" means the release of an individual from law enforcement custody during the time the individual awaits trial or other resolution of criminal charges.

[~~(15)~~] (16) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures an individual's risk of flight and risk of anticipated criminal conduct while on pretrial release.

[~~(16)~~] (17) "Pretrial services program" means a program that is established to:

(a) gather information on individuals booked into a jail facility;

(b) conduct pretrial risk assessments; and

(c) supervise individuals granted pretrial release.

[~~(17)~~] (18) "Pretrial status order" means an order issued by a magistrate or judge that:

(a) releases the individual on the individual's own recognizance while the individual awaits trial or other resolution of criminal charges;

(b) sets the terms and conditions of the individual's pretrial release while the individual awaits trial or other resolution of criminal charges; or

(c) denies pretrial release and orders that the individual be detained while the individual awaits trial or other resolution of criminal charges.

[~~(18)~~] (19) "Principal" means the same as that term is defined in Section 31A-35-102.

[~~(19)~~] (20) "Surety" means a surety insurer or a bail bond agency.

[~~(20)~~] (21) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

[~~(21)~~] (22) "Temporary pretrial status order" means an order issued by a magistrate that:

(a) releases the individual on the individual's own recognizance until a pretrial status order is issued;

(b) sets the terms and conditions of the individual's pretrial release until a pretrial status order is issued; or

(c) denies pretrial release and orders that the individual be detained until a pretrial status order is issued.

[~~(22) "Unsecured bond" means an individual's promise to pay a financial condition if the individual fails to appear for any required court appearance.~~]

Section 2. Section **77-20-205** is amended to read:

77-20-205. Pretrial release by a magistrate or judge.

(1)

(a) At the time that a magistrate issues a warrant of arrest, or finds there is probable cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure, the magistrate shall issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges.

(b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges.

(c) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary pretrial status order under Subsection (1) that detains an individual if the individual is arrested for a felony offense and the magistrate finds:

(i) there is substantial evidence to support the individual's arrest for the felony offense;

(ii) the individual committed the felony offense while:

(A) the individual was on parole or probation for a conviction of a felony offense; or

(B) the individual was released and awaiting trial on a previous charge for a felony offense; and

(iii) based on information reasonably available to the magistrate, the individual has at least nine cases where the individual has been charged or convicted, or entered a plea of guilty, within five years from the day on which the individual was arrested for the felony offense described in Subsection (1)(c)(i).

(d) Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an individual who does not meet the requirements described in Subsection (1)(c).

{~~(e) When issuing a temporary pretrial status order of detention under Subsection (1)(a)(iii), a magistrate shall:~~}

{~~(i) include in the order a written conclusion that:~~}

{~~(A) the order is required under Subsection (1)(c); or~~}

{~~(B) there is a substantial likelihood that the individual will reoffend if released; and~~}

{~~(ii) if the magistrate utilizes a pretrial risk assessment tool as part of the magistrate's decision-making process, the magistrate shall:~~}

{~~(A) before deciding whether the individual should be released, consider the individual's statistical likelihood of reoffending based on the individual's score on the tool; and~~}

{~~(B) include the individual's score from the tool in the written conclusion.~~}

(2)

(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a pretrial status order at an individual's first appearance before the court.

(b) The magistrate or judge may delay the issuance of a pretrial status order at an individual's first appearance before the court:

(i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for pretrial detention as described in Section 77-20-206;

(ii) if a party requests a delay; or

(iii) if there is good cause to delay the issuance.

{~~(c) Notwithstanding Subsection (2)(b), the prosecution shall proffer evidence in support of the prosecution's request for detention and if the court determines, after argument, that the showing is insufficient, the court shall:~~}

{~~(i) release the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or~~}

{~~(ii) designate a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges.~~}

{~~[~~(c){~~]~~} {~~(d)~~} If a magistrate or judge delays the issuance of a pretrial status order under Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until the issuance of a pretrial status order.

{~~(e)~~} (d) A request for a pretrial release at an initial appearance does not constitute a pretrial detention hearing under Section 77-20-206.

(3)

(a) When a magistrate or judge issues a pretrial status order, the pretrial status order shall:

(i) release the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designate a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) order the individual to be detained during the time that individual awaits trial or other resolution of criminal charges.

(b) In making a determination about pretrial release in a pretrial status order, the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.

(4) In making a determination about pretrial release, a magistrate or judge shall impose:

(a) [~~-~~]only conditions of release that are reasonably available; and

(b) conditions of release that reasonably ensure:

(i) the individual's appearance in court when required;

(ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(iii) the safety and welfare of the public; and

(iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.

(5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a condition, or combination of conditions, for pretrial release that requires an individual to:

(a) not commit a federal, state, or local offense during the period of pretrial release;

(b) avoid contact with a victim of the alleged offense;

(c) avoid contact with a witness who:

(i) may testify concerning the alleged offense; and

(ii) is named in the pretrial status order;

(d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;

(e) submit to drug or alcohol testing;

(f) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(g) submit to electronic monitoring or location device tracking;

(h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(i) maintain employment or actively seek employment if unemployed;

(j) maintain or commence an education program;

(k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;

(l) comply with specified restrictions on personal associations, place of residence, or travel;

(m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(n) comply with a specified curfew;

(o) forfeit or refrain from possession of a firearm or other dangerous weapon;

(p) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a reasonable person would know that children congregate;

(q) comply with requirements for house arrest;

(r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(s) remain in custody of one or more designated individuals who agree to:

(i) supervise and report on the behavior and activities of the individual; and

(ii) encourage compliance with all court orders and attendance at all required court proceedings;

(t) comply with a financial condition; or

(u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (4).

(6)

(a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.

(b) The magistrate or judge may not order conditions of release that would require the county or municipality to provide services that are not currently available from the county or municipality.

(c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of release not identified by the county or municipality so long as the condition does not require assistance or resources from the county or municipality.

(7)

(a) If the magistrate or judge determines that a financial condition[~~, other than an unsecured bond,~~] is necessary to impose as a condition of release, the magistrate or judge shall, when determining the amount of the financial condition, refer to the financial condition schedule in Section 77-20-205.5 and consider the individual's ability to pay[~~when determining the amount of the financial condition~~].

(b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and a county jail official fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:

(i) the county jail official's action to fix a financial condition; or

(ii) the amount of the financial condition that the individual was required to pay for pretrial release.

(c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.

(8) In making a determination about pretrial release, the magistrate or judge may:

(a) rely upon information contained in:

(i) the indictment or information;

(ii) any sworn or probable cause statement or other information provided by law enforcement;

(iii) a pretrial risk assessment;

(iv) an affidavit of indigency described in Section 78B-22-201.5;

(v) witness statements or testimony;

(vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or

(vii) any other reliable record or source, including proffered evidence; and

(b) consider:

(i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:

(A) whether the offense is a violent offense; and

(B) the vulnerability of a witness or alleged victim;

(ii) the nature and circumstances of the individual, including the individual's:

(A) character;

(B) physical and mental health;

(C) family and community ties;

(D) employment status or history;

(E) financial resources;

(F) past criminal conduct;

(G) history of drug or alcohol abuse; and

(H) history of timely appearances at required court proceedings;

(iii) the potential danger to another individual, or individuals, posed by the release of the individual;

(iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense or offenses;

(v) the availability of:

(A) other individuals who agree to assist the individual in attending court when required; or

(B) supervision of the individual in the individual's community;

(vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(9) The magistrate or judge may not base a determination about pretrial release solely:

(a) on the seriousness or type of offense that the individual is arrested for or charged with, unless the individual is arrested for or charged with a capital felony; or

(b) on an algorithm or a risk assessment tool score.

(10) The magistrate or judge shall make sufficiently detailed findings of fact on the risk of substantial dangerousness or flight from the court's jurisdiction to enable a reviewing court to ensure that the magistrate's or judge's determination reasonably considered all of the evidence presented to the court.

[~~(10)~~] (11) An individual arrested for violation of a jail release agreement, or a jail release court order, issued in accordance with Section 78B-7-802:

(a) may not be released before the individual's first appearance before a magistrate or judge; and

(b) may be denied pretrial release by the magistrate or judge.

Section 3. Section **3** is enacted to read:

77-20-205.5. Financial condition schedule.

(1) For a felony, the default amount for a financial condition is:

(a) $25,000 for a first degree felony with a minimum mandatory sentence;

(b) $20,000 for a first degree felony without a minimum mandatory sentence;

(c) $10,000 for a second degree felony; and

(d) $5,000 for a third degree felony.

(2) For a misdemeanor or infraction other than a local ordinance, the default amount for a financial condition is:

(a) $1,960 for a class A misdemeanor;

(b) $690 for a class B misdemeanor;

(c) $350 for a class C misdemeanor; and

(d) $110 for an infraction.

(3) For a violation of a local ordinance, the default amount for a financial condition is:

(a) $150 for a class B violation;

(b) $80 for a class C violation; and

(c) $25 for an infraction.

Section 4. Section **77-20-206** is amended to read:

77-20-206. Motion for pretrial detention -- Pretrial detention hearing -- Requirements for no bail holds.

(1)

(a) If the criminal charges filed against an individual include one or more offenses eligible for detention under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8, the prosecuting attorney may make a motion for pretrial detention.

(b) A prosecuting attorney shall include in the motion all information known to the prosecuting attorney that may be favorable to the individual subject to the criminal charge.

(c) The motion for pretrial detention may include proposed factual findings for the court to adopt.

[~~(b)~~] (d) Upon receiving a motion for pretrial detention under Subsection (1)(a), the judge shall set a pretrial detention hearing in accordance with Subsection (2).

(2)

(a) If a pretrial status order is not issued at an individual's first appearance and the individual remains detained, a pretrial detention hearing shall be held at the next available court hearing that is:

[~~(a)~~] (i) no sooner than seven days from the day on which the defendant was arrested; and

[~~(b)~~] (ii) no later than fourteen days from the day on which the defendant was arrested.

(b) {~~If~~ } A judge who is unable to hold a {~~pretrial~~ } detention hearing {~~is not held~~ } within {~~21~~ } 14 days of the date of an individual's first appearance {~~and the individual remains detained, the court shall:~~} shall appoint another judge to conduct the detention hearing within 21 days of the date of the individual's first appearance.

(3)

(a) {~~release the individual; or~~}

{~~(ii)~~} {~~fix a financial condition for the individual.~~}

{~~(3)~~}

{~~(a)~~} An individual, who is the subject of a pretrial detention hearing, has the right to be represented by counsel at the pretrial detention hearing.

(b) If a judge finds the individual is indigent under Section 78B-22-202, the judge shall appoint counsel to represent the individual in accordance with Section 78B-22-203.

(4) At the pretrial detention hearing:

(a) the judge shall give both parties the opportunity to make arguments and to present relevant evidence or information;

(b) the prosecuting attorney and the defendant have a right to subpoena witnesses to testify;{~~[~~ and~~]~~}

{~~(c) unless otherwise agreed by the prosecuting attorney and the defendant on the record, the court shall not receive evidence by proffer; and~~}

{~~[~~(c){~~]~~} {~~(d)~~ } the judge shall issue a pretrial status order in accordance with Subsection (5) and Section 77-20-205.

(5) After hearing evidence on a motion for pretrial detention, and based on the totality of the circumstances, a judge may order detention if:

(a) the individual is accused of committing an offense that qualifies for detention of the individual under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8; and

(b) the prosecuting attorney demonstrates substantial evidence to support the charge, and meets all additional evidentiary burdens required under Subsection 77-20-201(1) or {{[}Utah Constitution, Article I, Section 8.{]}} ~~Utah Constitution, Article I, Section 8; and~~}

{~~(c) the order meets the requirements of Subsection (8).~~}

(6) An alleged victim has the right to be heard at a pretrial detention hearing on a motion for pretrial detention.

(7) If a defendant seeks to subpoena an alleged victim who did not willingly testify at the pretrial detention hearing, a defendant may issue a subpoena, at the conclusion of the pretrial detention hearing, compelling the alleged victim to testify at a subsequent hearing only if the judge finds that the testimony sought by the subpoena:

(a) is material to the substantial evidence or clear and convincing evidence determinations described in Section 77-20-201 in light of all information presented to the court; and

(b) would not unnecessarily intrude on the rights of the victim or place an undue burden on the victim.

{~~(8) Upon issuance of a no bail hold:~~}

{~~(a) the court shall issue a written order that includes findings of fact and conclusions of law;~~}

{~~(b) if the court bases the court's findings in the order of detention, in whole or in part, on the individual's score in a pretrial risk assessment tool, the order shall identify, based on the individual's score from the tool, the percentage of the individual's statistical likelihood of:~~}

{~~(i) reoffense;~~}

{~~(ii) non-appearance; and~~}

{~~(iii) likelihood of a violent reoffense; and~~}

{~~(c)~~}

{~~(i) a signed order of detention containing written findings of fact and conclusions of law shall be entered within 48 hours of the pretrial detention hearing; and~~}

{~~(ii) if the signed order is not entered within 48 hours of the hearing, the court shall release the individual who is subject to the no bail hold request or fix a financial condition for that individual.~~}

Section 5. Section **77-20-207** is amended to read:

77-20-207. Modification of pretrial status order -- Failure to appear.

(1) A party may move to modify a pretrial status order:

(a) at any time after a pretrial status order is issued; and

(b) only upon a showing that there has been a material change in circumstances.

(2)

(a) Notwithstanding Subsection (1), a defendant may move to modify a pretrial status order if:

(i) the magistrate or judge imposed a financial condition as a condition of release in the pretrial status order; and

(ii) the defendant is unable to pay the financial condition within seven days after the day on which the pretrial status order is issued.

(b) For a motion under Subsection (2)(a), there is a rebuttable presumption that the defendant does not have the ability to pay the financial condition.

(3)

(a) If a party makes a motion to modify the pretrial status order, the party shall provide notice to the opposing party sufficient to permit the opposing party to prepare for a hearing and to permit each alleged victim to be notified and be present.

(b) A hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(4) In ruling upon a motion to modify a pretrial status order, the judge may:

(a) rely on information as provided in Subsection 77-20-205(8);

(b) base the judge's ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to pretrial release; and

(c)

(i) for a motion to modify a pretrial status order under Subsection (1), modify the pretrial status order, including the conditions of release, upon a finding that there has been a material change in circumstances; or

(ii) for a motion to modify a pretrial status order under Subsection (2), modify the pretrial status order by reducing the amount of the financial condition or imposing nonfinancial conditions of release upon a finding that the defendant is unable to pay the amount of the financial condition in the pretrial status order.

(5) In modifying a pretrial status order upon a motion by a party or on the court's own motion, the court shall consider whether imposing a bail bond as a condition of release in a modified pretrial status order will increase the likelihood of the defendant's appearance when:

(a) the defendant was previously released on the defendant's own recognizance or on nonfinancial conditions;

(b) the defendant willfully failed to appear at a required court appearance or has failed to appear at a required court appearance more than once; and

(c) a bench warrant was issued.

(6) A court may not modify a pretrial status order to a no bail hold solely on the basis of a failure to appear.

[~~(6)~~] (7) Subsections 77-20-205(3) through [~~(10)~~] (11) apply to a determination about pretrial release in a modified pretrial status order.

Section 6. Section **77-20-402** is amended to read:

77-20-402. Payment of monetary bail to court -- Specific payment methods -- Refund of monetary bail.

(1) Subject to Subsection (2), a defendant may choose to post the amount of monetary bail imposed by a judge or magistrate by any of the following methods:

(a) in cash;

(b) by a bail bond with a surety; or

[~~(c) by an unsecured bond, at the discretion of the judge or magistrate; or~~]

[~~(d)~~] (c) by credit or debit card, at the discretion of the judge or magistrate.

(2) A judge or magistrate may limit a defendant to a specific method of posting monetary bail described in Subsection (1):

(a) if, after charges are filed, the defendant fails to appear in the case on a bail bond and the case involves a violent offense;

(b) in order to allow the defendant to voluntarily remit the fine in accordance with Section 77-7-21 and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(c) if the defendant has failed to respond to a citation or summons and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(d) if a warrant is issued for the defendant solely for failure to pay a criminal accounts receivable, as defined in Section 77-32b-102, and the defendant's monetary bail is limited to the amount owed; or

(e) if a court has entered a judgment of bail bond forfeiture under Section 77-20-505 in any case involving the defendant.

(3) Monetary bail may not be accepted without receiving in writing at the time the bail is posted the current mailing address, telephone number, and email address of the surety.

(4) Monetary bail posted by debit or credit card, less the fee charged by the financial institution, shall be tendered to the courts.

(5)

(a) Monetary bail refunded by the court may be refunded by credit to the debit or credit card or in cash.

(b) The amount refunded shall be the full amount received by the court under Subsection (4), which may be less than the full amount of the monetary bail set by the judge or magistrate.

(c) Before refunding monetary bail that is posted by the defendant in cash, by credit card, or by debit card, the court may apply the amount posted toward a criminal accounts receivable, as defined in Section 77-32b-102, that is owed by the defendant in the priority set forth in Section 77-38b-304.

~~{Section 10. Section **77-27-5** is amended to read: }~~

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

(1)

(a) Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions an offender's conviction may be pardoned or commuted.

(b) The board shall determine by majority decision when and under what conditions an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

(i) be released upon parole;

(ii) have a fine or forfeiture remitted;

(iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

(iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

(v) have the offender's sentence terminated.

(c) The board shall prioritize public safety when making a determination under Subsection (1)(a) or (1)(b).

(d)

(i) The board may sit together or in panels to conduct hearings.

(ii) The chair shall appoint members to the panels in any combination and in accordance with rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iii) The chair may participate on any panel and when doing so is chair of the panel.

(iv) The chair of the board may designate the chair for any other panel.

(e)

(i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

(A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

(B) release the offender on parole; or

(C) commute, pardon, or terminate an offender's sentence.

(ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

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

(2)

(a) In the case of a hearing, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d)

(i) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section.

(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.

(3)

(a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) restitution, the modification of an offender's payment schedule for restitution, or an order for costs; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

(c) Pursuant to Subsection 63G-2-103(25)(b)(xi), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

(4)

(a) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment.

(b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of the board.

(c) At the next session of the board, the board:

(i) shall continue or terminate the respite or reprieve; or

(ii) may commute the punishment or pardon the offense as provided.

(d) In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at the Legislature's next session.

(e) The Legislature shall pardon or commute the sentence or direct the sentence's execution.

(5)

(a) In determining when, where, and under what conditions an offender serving a sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's criminal accounts receivable remitted, or have the offender's sentence commuted or terminated, the board shall:

(i) consider whether the offender has made restitution ordered by the court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the offender's sentence;

(ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making determinations under this Subsection (5);

(iii) consider information provided by the department regarding an offender's individual case action plan; and

(iv) review an offender's status within 60 days after the day on which the board receives notice from the department that the offender has completed all of the offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.

(b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.

(7) For an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

(8) The board may not rely solely on an algorithm or a risk assessment tool score in determining whether parole should be granted or terminated for an offender.

(9) The board may intervene as a limited-purpose party in a judicial or administrative proceeding, including a criminal action, to seek:

(a) correction of an order that has or will impact the board's jurisdiction; or

(b) clarification regarding an order that may impact the board's jurisdiction.

(10) A motion to intervene brought under Subsection (8)(a) shall be raised within 60 days after the day on which a court enters the order that impacts the board's jurisdiction.

~~{Section 11. Section **77-27-6.1** is amended to read: }~~

77-27-6.1. Payment of a criminal accounts receivable -- Failure to enter an order for restitution or create a criminal accounts receivable -- Modification of a criminal accounts receivable -- Order for recovery of costs or pecuniary damages.

(1) For an offender sentenced on or after July 1, 2021:

(a) [~~When~~] when an offender is committed to prison, the board may require the offender to pay the offender's criminal accounts receivable ordered by the court during the period of incarceration or parole supervision[~~.~~] ;

[~~(2)~~] (b) [~~If~~] if the board orders the release of an offender on parole and there is an unpaid balance on the offender's criminal accounts receivable, the board may modify the payment schedule entered by the court for the offender's criminal accounts receivable in accordance with Section 77-32b-105[~~.~~] ;

[~~(3)~~] (c)

[~~(a)~~] (i) [~~If~~] if the sentencing court has not entered an order of restitution for an offender who is under the jurisdiction of the board, the board shall refer the offender's case to the sentencing court, within the time periods described in Section 77-38b-205, to enter an order for restitution for the offender in accordance with Section 77-38b-205[~~.~~] ; and

[~~(b)~~] (ii) [~~If~~] if the sentencing court has not entered an order to establish a criminal accounts receivable for an offender who is under the jurisdiction of the board, the board shall refer the offender's case to the sentencing court, within the time periods described in Section 77-38b-205, to enter an order to establish a criminal accounts receivable for the offender in accordance with Section 77-32b-103[~~.~~] ; and

[~~(4)~~] (d)

[~~(a)~~] (i) [~~If~~] if there is a challenge to an offender's criminal accounts receivable, the board shall refer the offender's case to the sentencing court, within the time periods described in Section 77-38b-205, to resolve the challenge to the criminal accounts receivable[~~.~~] ; and

[~~(b)~~] (ii) [~~If~~] if a sentencing court modifies a criminal accounts receivable after the offender is committed to prison, the sentencing court shall provide notice to the board of the modification.

(2) For an offender sentenced before July 1, 2021:

(a) the board may impose any court order for restitution;

(b) the board may order that a defendant make restitution for pecuniary damages that were not determined by the court, unless the board determines that restitution is inappropriate based upon application of the following criteria:

(i) if the offense resulted in damage to or loss or destruction of property of a victim of the offense, the cost of the damage or loss;

(ii) the cost of necessary medical and related professional services and devices relating to physical or mental health care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(iii) the cost of necessary physical and occupational therapy and rehabilitation;

(iv) the income lost by the victim as a result of the offense;

(v) the individual victim's reasonable determinable wages lost due to theft of or damage to tools or equipment items of a trade that were owned by the victim and were essential to the victim's current employment at the time of the offense;

(vi) the cost of necessary funeral and related services if the offense resulted in the death of a victim; and

(vii) expenses incurred by a victim in implementing reasonable security measures in response to the offense;

(c) except as provided in Subsection (2)(d), the board shall make all orders of restitution within 60 days after the termination or expiration of the defendant's sentence;

(d) if, upon termination or expiration of a defendant's sentence, the board has continuing jurisdiction over the defendant for a separate criminal offense, the board may defer making an order of restitution until 60 days after termination or expiration of all sentences for that defendant;

(e) if, upon termination or expiration of a defendant's sentence, the defendant owes outstanding fines, restitution, or other assessed costs, or if the board makes an order of restitution within 60 days after the termination or expiration of the defendant's sentence:

(i) the matter shall be referred to the district court for civil collection remedies;

(ii) the Board of Pardons and Parole shall forward a restitution order to the sentencing court to be entered on the judgment docket as a civil judgment of restitution; and

(iii) the judgment docket entry shall constitute a lien and is subject to the same rules as a judgment for money in a civil judgment; and

(f) if the Board makes an order of restitution within 60 days after termination or expiration of the defendants sentence, a defendant shall have 90 days after the Board makes the order to file a petition for remittance in accordance with Section 77-32b-106;

(i) if a defendant timely files a petition for remittance, the board shall forward any unpaid amount of the restitution to the trial court to be entered on the judgment docket as a civil judgment of restitution within 30 days of resolving the defendants petition; and

(ii) if the defendant does not timely file a petition for remittance, the board shall forward the unpaid amount of restitution to the trial court to be entered on the judgment docket as a civil judgment of restitution within 30 days of the expiration of the time for the defendant to file the petition.

[~~(5)~~] (3) The board may enter an order to recover any cost or fee incurred by the department, or the state or any other agency, arising out of the offender's needs or conduct.

~~{Section 12. Section **77-32b-103** is amended to read: }~~

77-32b-103. Establishment of a criminal accounts receivable -- Responsibility -- Payment schedule -- Delinquency or default.

(1)

(a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts receivable for the defendant.

(b) The court is not required to create a criminal accounts receivable for the defendant under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there are no other fines or fees to be assessed against the defendant.

(c) If the court does not create a criminal accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to establish a criminal accounts receivable for the defendant at the time the court enters an order for restitution under Section 77-38b-205.

(2) [~~After~~] Except as provided in Subsection (7), after establishing a criminal accounts receivable for a defendant, the court shall:

(a) if a prison sentence is imposed and not suspended for the defendant:

(i) accept any payment for the criminal accounts receivable that is tendered on the date of sentencing; and

(ii) transfer the responsibility of receiving, distributing, and processing payments for the criminal accounts receivable to the Office of State Debt Collection; and

(b) for all other cases:

(i) retain the responsibility for receiving, processing, and distributing payments for the criminal accounts receivable until the court enters a civil accounts receivable or civil judgment of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) record each payment by the defendant on the case docket.

(c) For a criminal accounts receivable that a court retains responsibility for receiving, processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may establish rules to require a defendant to pay the cost, or a portion of the cost, for an electronic payment fee that is charged by a financial institution for the use of a credit or debit card to make payments towards the criminal accounts receivable.

(3)

(a) Upon entering an order for a criminal accounts receivable, the court shall establish a payment schedule for the defendant to make payments towards the criminal accounts receivable.

(b) In establishing the payment schedule for the defendant, the court shall consider:

(i) the needs of the victim if the criminal accounts receivable includes an order for restitution under Section 77-38b-205;

(ii) the financial resources of the defendant, as disclosed in the financial declaration under Section 77-38b-204 or in evidence obtained by subpoena under Subsection 77-38b-402(1)(b);

(iii) the burden that the payment schedule will impose on the defendant regarding the other reasonable obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and method of payment; and

(vi) any other circumstance that the court determines is relevant.

(c) If the court is unable to determine the appropriate amount for the payment schedule or does not set an amount for the payment schedule, the defendant is required to pay $50 per month toward the criminal accounts receivable.

(4) A payment schedule for a criminal accounts receivable does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

(5) If the court orders restitution under Section 77-38b-205, or makes another financial decision, after sentencing that increases the total amount owed in a defendant's case, the defendant's criminal accounts receivable balance shall be adjusted to include any new amount ordered by the court.

(6)

(a) If a defendant is incarcerated in a county jail or a secure correctional facility, as defined in Section 64-13-1, or the defendant is involuntarily committed under Section 26B-5-332:

(i) all payments for a payment schedule shall be suspended for the period of time that the defendant is incarcerated or involuntarily committed, unless the court, or the board if the defendant is under the jurisdiction of the board, expressly orders the defendant to make payments according to the payment schedule; and

(ii) the defendant shall provide the court with notice of the incarceration or involuntary commitment.

(b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day in which the defendant is released from incarceration or commitment.

(7)

(a) If the defendant owes restitution to the State Tax Commission, Department of Workforce Services, or Department of Health and Human Services, the court may order that all or a portion of criminal accounts receivable be paid directly to the governmental agency or entity.

(b) If the authority to collect all or portion of the criminal accounts receivable is given to a governmental agency or entity under this Subsection (7), the governmental agency or entity shall maintain an accounting of all payments made or credits toward reduction of the balance of the criminal accounts receivable.

(c) The governmental entity or agency shall provide a copy of the accounting upon filing an order to show cause in the criminal case to the court or upon request to the court, Board of Pardons and Parole, Department of Corrections, private probation provider, prosecutor, defendant, or other victim.

~~{Section 13. Section **77-38b-202** is amended to read: }~~

77-38b-202. Prosecuting attorney responsibility for collecting restitution information -- Depositing restitution on behalf of victim.

(1) If a prosecuting attorney files a criminal charge against a defendant, the prosecuting attorney shall:

(a) contact any known victim of the offense for which the criminal charge is filed, or person asserting a claim for restitution on behalf of the victim; and

(b) gather the following information from the victim or person:

(i) the name of the victim or person; and

(ii) the actual or estimated amount of restitution.

(2)

(a) When a conviction, a diversion agreement, or a plea in abeyance is entered by the court, the prosecuting attorney shall provide the court with the information gathered by the prosecuting attorney under Subsection (1)(b).

(b) If, at the time of the plea disposition or conviction, the prosecuting attorney does not have all the information under Subsection (1)(b), the prosecuting attorney shall provide the defendant with:

(i) at the time of plea disposition or conviction, all information under Subsection (1)(b) that is reasonably available to the prosecuting attorney; and

(ii) any information under Subsection (1)(b) as the information becomes available to the prosecuting attorney.

(c) Nothing in this section shall be construed to prevent a prosecuting attorney, a victim, or a person asserting a claim for restitution on behalf of a victim from:

(i) submitting information on, or a request for, restitution to the court within the time periods described in Section 77-38b-205; or

(ii) submitting information on, or a request for, restitution for additional or substituted victims within the time periods described in Section 77-38b-205.

(3)

(a) The prosecuting attorney may be authorized by the sentencing court or appropriate public treasurer to deposit restitution collected on behalf of a victim into an interest-bearing account in accordance with Title 51, Chapter 7, State Money Management Act, pending the distribution of the funds to the victim.

(b) If restitution is deposited into an interest-bearing account under Subsection (3)(a), the prosecuting attorney shall:

(i) distribute any interest that accrues in the account to each victim on a pro rata basis; and

(ii) if all victims have been made whole and funds remain in the account, distribute any remaining funds to the Division of Finance, created in Section 63A-3-101, to deposit to the Utah Office for Victims of Crime.

(c) Nothing in this section prevents an independent judicial authority from collecting, holding, and distributing restitution.

~~{Section 14. Section **77-38b-301** is amended to read: }~~

77-38b-301. Entry of a civil judgment of restitution and civil accounts receivable -- Continuation of the criminal action -- Interest -- Delinquency.

(1) As used in this section, "civil judgment" means an order for:

(a) a civil judgment of restitution; or

(b) a civil accounts receivable.

(2) If the court has entered a civil judgment on the civil judgment docket under Section 77-18-114, the civil judgment is enforceable under the Utah Rules of Civil Procedure.

(3)

(a) Notwithstanding Sections 77-18-114, 78B-2-311, and 78B-5-202, a civil judgment shall expire only upon payment in full, including any applicable interest, collection fees, attorney fees, and liens that directly result from the civil judgment.

(b) Interest on a civil judgment may only accrue from the day on which the civil judgment is entered on the civil judgment docket by the court.

(c) This Subsection (3) applies to all civil judgments that are not paid in full on or before May 12, 2009.

(4) A civil judgment is considered entered on the civil judgment docket when the civil judgment appears on the [~~civil judgment~~] court docket with:

(a) an amount owed by the defendant;

(b) the name of the defendant as the judgment debtor; and

(c) the name of the judgment creditors described in Subsections 77-18-114(1)(b)(iii) and (2)(b).

(5) If a civil judgment becomes delinquent, or is in default, and upon a motion from a judgment creditor, the court may order the defendant to appear and show cause why the defendant should not be held in contempt under Section 78B-6-317 for the delinquency or the default.

(6) Notwithstanding any other provision of law:

(a) a civil judgment is an obligation that arises out of a defendant's criminal case;

(b) a civil judgment is criminal in nature;

(c) the civil enforcement of a civil judgment shall be construed as a continuation of the criminal action for which the civil judgment arises; and

(d) the civil enforcement of a civil judgment does not divest a defendant of an obligation imposed as part of the defendant's punishment in a criminal action.

~~{Section 15. Section **78A-2-214** is amended to read: }~~

78A-2-214. Collection of accounts receivable.

[~~(1)~~] As used in this section:

(1)

(a) "Accounts receivable" means any amount due the state from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third party claims, sale of goods, sale of services, claims, and damages.

(2) If a defendant is sentenced before July 1, 2021, and the Department of Corrections, or the Office of State Debt Collection, is not responsible for collecting an accounts receivable for the defendant, the district court shall collect the accounts receivable for the defendant.

(3)

(a) In the juvenile court, money collected by the court from past-due accounts receivable may be used to offset system, administrative, legal, and other costs of collection.

(b) The juvenile court shall allocate money collected above the cost of collection on a pro rata basis to the various revenue types that generated the accounts receivable.

(4) The interest charge described in Subsection [~~63A-3-502(4)(g)(iii)~~] 63A-3-502(4)(g)(iii)(B) may not be assessed on an account receivable that is subject to the postjudgment interest rate established by Section 15-1-4.

~~{Section 16. Section **78B-22-301** is amended to read: }~~

78B-22-301. Standards for indigent defense systems -- Written report.

(1) An indigent defense system shall provide indigent defense services for an indigent individual in accordance with the core principles adopted by the commission under Section 78B-22-404.

(2)

(a) On or before March 30 of each year, all indigent defense systems shall submit a written report to the commission that[~~.~~] :

(i) describes each indigent defense system's compliance with the commission's core principles[~~.~~] ; and

(ii) if the indigent defense system operates in a county that is participating in the verification of indigency pilot program created in Section 78B-22-1002, provides information and feedback on the indigent defense system's activities in relation to the pilot program.

(b) If an indigent defense system fails to submit a timely report under Subsection (2)(a), the indigent defense system is disqualified from receiving a grant from the commission for the following calendar year.

~~{Section 17. Section **78B-22-404** is amended to read: }~~

78B-22-404. Powers and duties of the commission.

(1) The commission shall:

(a) adopt core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which principles at a minimum shall address the following:

(i) an indigent defense system shall ensure that in providing indigent defense services:

(A) an indigent individual receives conflict-free indigent defense services; and

(B) there is a separate contract for each type of indigent defense service; and

(ii) an indigent defense system shall ensure an indigent defense service provider has:

(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;

(B) adequate access to indigent defense resources;

(C) the ability to provide representation to accused individuals in criminal cases at the critical stages of proceedings, and at all stages to indigent individuals in juvenile delinquency and child welfare proceedings;

(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;

(E) adequate compensation without financial disincentives;

(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;

(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;

(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;

(c) emphasize the importance of ensuring constitutionally effective indigent defense services;

(d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services;

(e) oversee individuals and entities involved in providing indigent defense services;[~~and~~]

(f) establish, and periodically review and revise, recommended criteria and standards for determining and verifying indigency; and

[~~(f)~~] (g) manage county participation in the Indigent Aggravated Murder Defense Fund created in Section 78B-22-701.

(2) The commission may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part;

(b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties;

(c) request supplemental appropriations from the Legislature to address a deficit in the Indigent Inmate Fund created in Section 78B-22-455; and

(d) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental Representation Fund created in Section 78B-22-804.

~~{Section 18. Section **78B-22-452** is amended to read: }~~

78B-22-452. Duties of the office.

(1) The office shall:

(a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;

(g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:

(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as classified in Section 17-50-501;

(ii) is charged with having committed a crime within that state prison; and

(iii) has been appointed counsel in accordance with Section 78B-22-203;

(h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(j) administer the Child Welfare Parental Representation Program in accordance with Part 8, Child Welfare Parental Representation Program;

(k) administer the Indigent Aggravated Murder Defense Fund in accordance with Part 7, Indigent Aggravated Murder Defense Fund;

(l) assign an indigent defense service provider to represent an individual prosecuted for aggravated murder in accordance with Part 7, Indigent Aggravated Murder Defense Fund;

(m) annually report to the governor, [~~Legislature, ~~]Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state;[~~ and~~]

(iii) the current activities and results of the verification of indigency pilot program created in Section 78B-22-1001; and

[~~(iii)~~] (iv) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;

(n) submit recommendations to the commission for improving indigent defense services in the state;

(o) publish an annual report on the commission's website; and

(p) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.

~~{Section 19. Section **78B-22-1001** is amended to read: }~~

78B-22-1001. Verification of indigency -- Pilot program.

(1) Beginning on July 1, 2022, and ending on June 30, [~~2025~~] 2028, an indigent defense system in Cache County, Davis County, Duchesne County, and San Juan County shall conduct a pilot program to verify the indigency of individuals who were provided indigent defense services by the indigent defense system, except as provided in Subsection [~~(5)~~] (6).

(2) Under the pilot program described in Subsection (1), the indigent defense system shall review and verify financial information in a statistically significant sample of cases for each calendar year where, except as provided in Subsection [~~(5)~~] (6):

(a) an individual was found to be indigent by a court; and

(b) the indigent defense system provided indigent defense services to the individual.

(3) To verify financial information under Subsection (2), the indigent defense system may require an individual to provide financial documentation or proof demonstrating that the individual qualifies as indigent under Section 78B-22-202.

(4) An indigent defense system described in Subsection (1) shall report to the [~~Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee,~~] commission concerning the results of the pilot program described in this section, on or before [~~November 1~~] March 30 of each year of the [~~three-year~~]pilot program.

(5) The commission shall regularly coordinate with the office regarding the ongoing activities and results of the pilot program.

[~~(5)~~] (6) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.

~~{Section 20. Section **80-6-507** is amended to read: }~~

80-6-507. Commitment of a minor by a district court -- Housing of a minor in a secure care facility or correctional facility -- Transfer of a minor.

(1)

(a) If the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence when sentencing a minor:

(i) the district court shall order the minor committed to prison; and

(ii)

(A) the minor shall be provisionally housed in a secure care facility [~~.~~]until the minor reaches 25 years old, unless released earlier from incarceration by the Board of Pardons and Parole[~~.~~] ; or

(B) if the minor is convicted of aggravated murder under Section 76-5-202, the minor was 17 years old when the aggravated murder occurred, and the minor was 18 years old or older at the time of sentencing, the district court may order the minor to be housed in a correctional facility rather than a secure care facility.

(b) Upon a motion by the prosecuting attorney, a district court may review the status of a minor who is provisionally housed in a secure care facility as described in Subsection (1)(a)(ii)(A) and order that the minor be committed to the physical custody of the Department of Corrections and housed in a correctional facility if:

(i) the minor meets the requirements of Subsection (1)(a)(ii)(B); and

(ii) the court finds that the transfer is warranted.

[~~(b) Subsection (1) applies to any minor being provisionally housed in a secure care facility as described in Subsection (1)(a) on or after May 4, 2022.~~]

(c) The district court shall, as a part of sentencing, also order the minor to make restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act.

(2)

(a) The division shall adopt procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a secure care facility [-]under Subsection (1) to the physical custody of the Department of Corrections.

(b) If, in accordance with the rules adopted under Subsection (2)(a), the division determines that housing the minor in a secure care facility [-]presents an unreasonable risk to others or that it is not in the best interest of the minor, the division shall transfer the physical custody of the minor to the Department of Corrections.

(3)

(a) When a minor is committed to prison but provisionally housed in a secure care facility [-]under this section, the district court and the division shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures.

(b) If a minor who is provisionally housed in a secure care facility [-]under this section has not been paroled or otherwise released from incarceration by the time the minor reaches 25 years old, the division shall as soon as reasonably possible, but not later than when the minor reaches 25 years and 6 months old, transfer the minor to the physical custody of the Department of Corrections.

(4) Upon the commitment of a minor to the custody of the division or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of parole, pardon, commutation, termination of sentence, remission of restitution, fines, or forfeitures, [~~orders of restitution,~~]and all other purposes authorized by law.

(5) The authority shall:

(a) hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the division under this section; and

(b) forward to the Board of Pardons and Parole any information or recommendations concerning the minor.

(6) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

Section 7. **Effective date.**

This bill takes effect on May 7, 2025.

3-3-25 7:19 AM