

Chapter 18 **The Judgment**

77-18-101 Title.

This chapter is known as "The Judgment."

Enacted by Chapter 260, 2021 General Session

77-18-102 Definitions.

As used in this chapter:

- (1) "Assessment" means, except as provided in Section 77-18-104, the same as the term "risk and needs assessment" in Section 77-1-3.
- (2) "Board" means the Board of Pardons and Parole.
- (3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.
- (4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
- (5) "Convicted" means the same as that term is defined in Section 76-3-201.
- (6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.
- (7) "Default" means the same as that term is defined in Section 77-32b-102.
- (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.
- (9) "Department" means the Department of Corrections created in Section 64-13-2.
- (10) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- (11) "Restitution" means the same as that term is defined in Section 77-38b-102.
- (12) "Screening" means, except as provided in Section 77-18-104, a tool or questionnaire that is designed to determine whether an individual needs further assessment or any additional resource or referral for treatment.
- (13) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of Licensing within the Department of Health and Human Services.

Amended by Chapter 330, 2023 General Session

77-18-103 Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

- (1) Before the imposition of a sentence, the court may:
 - (a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and
 - (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.
- (2) If a presentence investigation report is required under the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:
 - (a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);
 - (b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

- (c) findings from any screening and any assessment of the defendant conducted under Section 77-18-104;
 - (d) recommendations for treatment for the defendant; and
 - (e) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.
- (3) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.
- (4)
- (a)
 - (i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:
 - (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and
 - (B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.
 - (ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:
 - (A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and
 - (B) provide the written finding to the Division of Adult Probation and Parole or the law enforcement agency.
 - (b) The Division of Adult Probation and Parole shall attach the written finding to the presentence investigation report as an addendum.
 - (c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.
- (5) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.
- (6)
- (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
 - (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.
- (7) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:
- (a) ordered by the court in accordance with Subsection 63G-2-202(7);
 - (b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;
 - (c) requested by the board;
 - (d) requested by the subject of the presentence investigation report or the subject's authorized representative;
 - (e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:
 - (i) statements or materials provided by the victim;

- (ii) the circumstances of the offense, including statements by the defendant; or
 - (iii) the impact of the offense on the victim or the victim's household; or
- (f) requested by a sex offender treatment provider:
- (i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);
 - (ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and
 - (iii) who provides written assurance to the department that the report:
 - (A) is necessary for the treatment of the defendant;
 - (B) will be used solely for the treatment of the defendant; and
 - (C) will not be disclosed to an individual or entity other than the defendant.
- (8)
- (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.
 - (b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in open court on record and in the presence of the defendant.

Amended by Chapter 155, 2023 General Session

77-18-104 Screening, assessment, and treatment.

- (1) As used in this section:
 - (a) "Assessment" has the same meaning as in Section 41-6a-501.
 - (b) "Screening" has the same meaning as in Section 41-6a-501.
- (2) In coordination with the local substance abuse authority regarding available resources, a court in which the Drug-Related Offenses Reform Act under Section 63M-7-305 is implemented shall order a convicted defendant, who is determined to be eligible in accordance with the implementation plan developed by the Utah Substance Use and Mental Health Advisory Council under Section 63M-7-305, to:
 - (a) participate in a screening before sentencing;
 - (b) participate in an assessment before sentencing if the screening indicates an assessment to be appropriate; and
 - (c) participate in substance use disorder treatment if:
 - (i) the assessment indicates treatment to be appropriate;
 - (ii) the court finds treatment to be appropriate for the convicted defendant; and
 - (iii) the court finds the convicted defendant to be an appropriate candidate for community-based supervision.
- (3) The findings from any screening and any assessment conducted under this section shall be part of the presentence investigation report submitted to the court under Section 77-18-103.
- (4) Money appropriated by the Legislature to assist in the funding of the screening, assessment, substance use disorder treatment, and supervision provided under this section is not subject to any requirement regarding matching funds from a state or local governmental entity.

Renumbered and Amended by Chapter 260, 2021 General Session

77-18-105 Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

- (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:
 - (a) in accordance with Chapter 2a, Pleas in Abeyance; and
 - (b) under the terms of the plea in abeyance agreement.
- (2) If a defendant is convicted, the court:
 - (a) shall impose a sentence in accordance with Section 76-3-201; and
 - (b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:
 - (i) on probation under the supervision of the department;
 - (ii) on probation under the supervision of an agency of a local government or a private organization; or
 - (iii) on court probation under the jurisdiction of the sentencing court.
- (3)
 - (a) The legal custody of all probationers under the supervision of the department is with the department.
 - (b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.
 - (c) The court has continuing jurisdiction over all probationers.
- (4)
 - (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.
 - (b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.
 - (c) If a court orders supervised probation and determines that a public probation provider is unavailable or inappropriate to supervise the defendant, the court shall make available to the defendant the list of private probation providers prepared by a criminal justice coordinating council under Section 17-55-201.
- (5)
 - (a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.
 - (b)
 - (i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:
 - (A) the agency has the capacity to supervise the individual; and
 - (B) the individual's supervision needs will be met by the agency.
 - (ii) A court may only order:
 - (A) the department to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or
 - (B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.
 - (c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.
- (6)
 - (a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

- (i) to provide for the support of persons for whose support the defendant is legally liable;
 - (ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;
 - (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;
 - (iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;
 - (v) to serve a term of home confinement in accordance with Section 77-18-107;
 - (vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-3-410;
 - (vii) to pay for the costs of investigation, probation, or treatment services;
 - (viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or
 - (ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.
- (b)
- (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.
 - (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).
- (7)
- (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:
 - (i) may not exceed the individual's maximum sentence;
 - (ii) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and
 - (iii) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.
 - (b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.
 - (c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.
 - (d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.
- (8)
- (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards

the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

- (b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.
 - (c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.
 - (d)
 - (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.
 - (ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.
 - (e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.
- (9) When making any decision regarding probation, the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 257, 2023 General Session

77-18-106 Treatment at the Utah State Hospital -- Condition of probation or stay of sentence.

The court may order as a condition of probation, or a stay of sentence, that the defendant be voluntarily admitted to the custody of the Office of Substance Use and Mental Health for treatment at the Utah State Hospital only if the superintendent of the Utah State Hospital, or the superintendent's designee, certifies to the court that:

- (1) the defendant is appropriate for, and can benefit from, treatment at the Utah State Hospital;
- (2) there is space at the Utah State Hospital for treatment of the defendant; and
- (3) individuals described in Subsection 26B-5-306(2)(g) are receiving priority for treatment over the defendant.

Amended by Chapter 330, 2023 General Session

77-18-107 Home confinement -- Electronic monitoring for home confinement.

- (1) The court may order home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.
- (2) The department shall establish procedures and standards for home confinement for all defendants supervised by the department for home confinement.
- (3) If the court places the defendant on probation and orders the defendant to participate in home confinement under Subsection (1), the court may order the defendant to participate in home confinement through the use of electronic monitoring until further order of the court.
- (4) The electronic monitoring of a defendant shall alert the department and the appropriate law enforcement agency of the defendant's whereabouts.
- (5) An electronic monitoring device shall be used under conditions that require:

- (a) the defendant to wear an electronic monitoring device at all times; and
 - (b) the device be placed in the home of the defendant to monitor the defendant's compliance with the court's order.
- (6) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under Subsection (3), the court shall:
- (a) place the defendant on probation under the supervision of the department;
 - (b) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and
 - (c) order the defendant to pay the costs associated with home confinement to the department or the program provider.
- (7) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.
- (8) The department may provide the electronic monitoring described in this section directly or by contract with a private provider.

Enacted by Chapter 260, 2021 General Session

77-18-108 Termination, revocation, modification, or extension of probation -- Violation of probation -- Hearing on violation.

- (1)
- (a) The department shall send a written notice to the court:
 - (i) when the department is recommending termination of supervision for a defendant; or
 - (ii) before a defendant's supervision will be terminated by law.
 - (b) The written notice under this Subsection (1) shall include:
 - (i) a probation progress report; and
 - (ii) if the department is responsible for the collection of the defendant's criminal accounts receivable, a summary of the criminal accounts receivable, including the amount of restitution ordered and the amount of restitution that has been paid.
 - (c)
 - (i) Upon receipt of the written notice under Subsection (1)(a), the court shall:
 - (A) file the written notice on the docket; and
 - (B) provide notice to all parties in the criminal case.
 - (ii) A party shall have a reasonable opportunity to respond to the written notice under Subsection (1)(a).
 - (d) If a defendant's probation is being terminated, and the defendant's criminal accounts receivable has an unpaid balance or there is any outstanding debt with the department, the department shall send a written notice to the Office of State Debt Collection with a summary of the defendant's criminal accounts receivable, including the amount of restitution ordered and the amount of restitution that has been paid.
- (2)
- (a) The court may modify the defendant's probation in accordance with the supervision length guidelines and the graduated and evidence-based responses and graduated incentives developed by the Utah Sentencing Commission under Section 63M-7-404.
 - (b) The court may not:
 - (i) extend the length of a defendant's probation, except upon:
 - (A) waiver of a hearing by the defendant; or
 - (B) a hearing and a finding by the court that the defendant has violated the terms of probation;

- (ii) revoke a defendant's probation, except upon a hearing and a finding by the court that the terms of probation have been violated; or
 - (iii) terminate a defendant's probation before expiration of the probation period until the court:
 - (A) reviews the docket to determine whether the defendant owes a balance on the defendant's criminal accounts receivable; and
 - (B) enters a finding of whether the defendant owes restitution under Section 77-38b-205.
 - (c) The court may find under Subsection (2)(b)(iii)(B) that the defendant does not owe restitution if no request for restitution has been filed with the court.
- (3)
- (a) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, alleging with particularity facts asserted to constitute violation of the terms of a defendant's probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of the defendant's probation is justified.
 - (b)
 - (i) If the court determines there is probable cause, the court shall order that the defendant be served with:
 - (A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration; and
 - (B) an order to show cause as to why the defendant's probation should not be revoked, modified, or extended.
 - (ii) The order under Subsection (3)(b)(i)(B) shall:
 - (A) be served upon the defendant at least five days before the day on which the hearing is held;
 - (B) specify the time and place of the hearing; and
 - (C) inform the defendant of the right to be represented by counsel at the hearing, the right to have counsel appointed if the defendant is indigent, and the right to present evidence at the hearing.
 - (iii) The defendant shall show good cause for a continuance of the hearing.
 - (c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.
 - (d)
 - (i) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.
 - (ii) If the affidavit, or unsworn written declaration, alleges that a defendant is delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall present evidence to establish, by a preponderance of the evidence, that the defendant:
 - (A) was aware of the defendant's obligation to pay the balance of the criminal accounts receivable;
 - (B) failed to pay on the balance of the criminal accounts receivable as ordered by the court; and
 - (C) had the ability to make a payment on the balance of the criminal accounts receivable if the defendant opposes an order to show cause, in writing, and presents evidence that the defendant was unable to make a payment on the balance of the criminal accounts receivable.
 - (e) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant, unless the court for good cause otherwise orders.

- (f) At the hearing, the defendant may:
 - (i) call witnesses;
 - (ii) appear and speak in the defendant's own behalf; and
 - (iii) present evidence.
- (g)
 - (i) After the hearing, the court shall make findings of fact.
 - (ii) Upon a finding that the defendant violated the terms of the defendant's probation, the court may order the defendant's probation terminated, revoked, modified, continued, or reinstated for all or a portion of the original term of probation.
- (4)
 - (a)
 - (i) Except as provided in Subsection 77-18-105(7), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.
 - (ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation that the defendant serves, in relation to the same sentence, may not exceed the defendant's maximum sentence.
 - (b) If the court orders a sanction for a defendant who violated terms of probation, the court may:
 - (i) order a period of incarceration that is consistent with the guidelines established by the Utah Sentencing Commission in accordance with Subsection 63M-7-404(4);
 - (ii) order a period of incarceration that deviates from the guidelines with an explanation for the deviation on the record;
 - (iii) order treatment services that are immediately available in the community for a defendant that needs substance abuse or mental health treatment, as determined by a screening and assessment;
 - (iv) execute the sentence previously imposed; or
 - (v) order any other appropriate sanction.
 - (c) If the defendant had, before the imposition of a term of incarceration or the execution of the previously imposed sentence under this section, served time in jail as a term of probation or due to a violation of probation, the time that the defendant served in jail constitutes service of time toward the sentence previously imposed.
- (5)
 - (a) Any time served by a defendant:
 - (i) outside of confinement after having been charged with a probation violation, and before a hearing to revoke probation, does not constitute service of time toward the total probation term, unless the defendant is exonerated at a hearing to revoke the defendant's probation;
 - (ii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation does not constitute service of time toward the total probation term, unless the defendant is exonerated at the hearing to revoke probation; or
 - (iii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated and evidence-based response imposed under the guidelines established by the Utah Sentencing Commission in accordance with Section 63M-7-404.
 - (b) The running of the probation period is tolled upon:
 - (i) the filing of a report with the court alleging a violation of the terms of the defendant's probation; or
 - (ii) the issuance of an order or a warrant under Subsection (3).

Amended by Chapter 113, 2023 General Session

77-18-109 Standards for supervision and presentence investigation.

- (1) The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:
 - (a) the type of offense;
 - (b) the results of a screening and an assessment;
 - (c) the demand for services;
 - (d) the availability of agency resources;
 - (e) public safety; and
 - (f) other criteria established by the department to determine what level of services shall be provided.
- (2) The department shall submit proposed supervision and presentence investigation standards annually to the Judicial Council and the board for review and comment before the department adopts the standards.
- (3) The Judicial Council and the department shall establish procedures to implement the supervision and presentence investigation standards.
- (4) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (1) and other criteria as the Judicial Council and the department consider appropriate.
- (5) The Judicial Council and the department shall:
 - (a) annually prepare an impact report; and
 - (b) submit the impact report to the appropriate legislative appropriations subcommittee.

Enacted by Chapter 260, 2021 General Session

77-18-110 Disposition of fines.

A fine imposed by the district court shall be paid in accordance with Section 78A-5-110.

Renumbered and Amended by Chapter 260, 2021 General Session

77-18-111 Sentence -- Term -- Construction.

- (1) If an individual is convicted of a crime and the judgment provides for a commitment to the state prison, the court shall not fix a definite term of imprisonment unless otherwise provided by law.
- (2) The sentence and judgment of imprisonment shall be for an indeterminate term of not less than the minimum and not to exceed the maximum term provided by law for the particular crime.
- (3) Except as otherwise expressly provided by law, every sentence, regardless of the sentence's form or terms, which purports to be for a shorter or different period of time, shall be construed to be a sentence for the term between the minimum and maximum periods of time provided by law and shall continue until the maximum period has been reached unless sooner terminated or commuted by authority of the board.

Renumbered and Amended by Chapter 260, 2021 General Session

77-18-112 Reports by courts and prosecuting attorneys to Board of Pardons and Parole.

In cases where an indeterminate sentence is imposed, the court and prosecuting attorney may, within 30 days, mail a statement to the board setting forth the term for which the prisoner

ought to be imprisoned together with any information which might aid the board in passing on the application for termination or commutation of the sentence or for parole or pardon.

Renumbered and Amended by Chapter 260, 2021 General Session

77-18-113 Judgment of death -- Method is lethal injection -- Exceptions for use of firing squad.

- (1)
 - (a) When a defendant is convicted of a capital felony and the judgment of death has been imposed, lethal intravenous injection is the method of execution.
 - (b) Subsection (1)(a) applies to any defendant sentenced to death on or after May 3, 2004, except under Subsections (2), (3), and (4).
- (2)
 - (a) If a court holds that a defendant has a right to be executed by a firing squad, the method of execution for that defendant shall be a firing squad.
 - (b) This Subsection (2) applies to any defendant whose right to be executed by a firing squad is preserved by that judgment.
- (3)
 - (a) If a court holds that execution by lethal injection is unconstitutional on its face, the method of execution shall be a firing squad.
 - (b) If a court holds that execution by lethal injection is unconstitutional as applied, the method of execution for that defendant shall be a firing squad.
- (4) The method of execution for the defendant is the firing squad if the sentencing court determines the state is unable to lawfully obtain the substance or substances necessary to conduct an execution by lethal intravenous injection 30 or more days before the date specified in the warrant issued upon a judgment of death under Section 77-19-6.

Renumbered and Amended by Chapter 260, 2021 General Session

77-18-114 Unpaid balance at termination of sentence -- 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 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 77-18-118(1)(g), 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.

- (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 in Subsection 77-38b-205(5) has passed 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 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.

Amended by Chapter 113, 2023 General Session

77-18-115 Liability of rescued person for costs of emergency response.

- (1) Any person who violates Section 76-6-206.1 and whose conduct required emergency care, rescue, assistance, or recovery services at the scene of an abandoned or inactive mine may be charged with the expenses incurred in meeting the emergency.
- (2)
 - (a) The court's order shall be a judgment that orders the payment of reimbursement to any public agency or private body that incurred the expenses.
 - (b) The judgment shall constitute a lien when recorded in the judgment docket and shall have the same effect and is subject to the same rules as a judgment for money in a civil action.

- (3) The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

Renumbered and Amended by Chapter 260, 2021 General Session

77-18-116 Costs imposed on defendant -- Restrictions.

Unless specifically authorized by statute, a defendant shall not be required to pay court costs in a criminal case as:

- (1) a part of a sentence; or
- (2) a condition of probation or dismissal.

Renumbered and Amended by Chapter 260, 2021 General Session

77-18-117 Fine not paid -- Commitment.

- (1) When a defendant is sentenced to pay a fine in addition to a jail or a prison sentence and the judgment is that the jail or prison sentence be suspended upon payment of the fine, the service of the jail or prison sentence shall satisfy the judgment.
- (2) If a defendant fails to pay the fine and the court finds that the defendant failed to make a good faith effort to pay the fine, the court may, after a hearing, order the execution of the suspended jail or prison sentence.
- (3) If a defendant is sentenced to pay a fine only, or is sentenced to jail or prison and a fine, with neither suspended, the defendant may not later be committed to jail for failure to pay the fine.

Renumbered and Amended by Chapter 260, 2021 General Session

77-18-118 Continuing jurisdiction of a sentencing court.

- (1) A sentencing court shall retain jurisdiction over a defendant's criminal case:
 - (a) if the defendant is on probation as described in Subsection 77-18-105(3)(c);
 - (b) if the defendant is on probation and the probation period has terminated under Subsection 77-18-105(7), to require the defendant to continue to make payments towards a criminal accounts receivable until the defendant's sentence expires;
 - (c) within the time periods described in Subsection 77-38b-205(5), to enter or modify an order for a criminal accounts receivable in accordance with Section 77-32b-103;
 - (d) within the time periods described in Subsection 77-38b-205(5), to enter or modify an order for restitution in accordance with Section 77-38b-205;
 - (e) until a defendant's sentence is terminated, to correct an error for a criminal accounts receivable in accordance with Subsection 77-32b-105(1)(a);
 - (f) until a defendant's sentence is terminated, to modify a payment schedule for a criminal accounts receivable in accordance with Subsection 77-32b-105(1)(b);
 - (g) if a defendant files a petition for remittance under Subsection 77-32b-106(1) within 90 days from the day on which the defendant's sentence is terminated, to determine whether to remit, in whole or in part, the defendant's criminal accounts receivable; and
 - (h) to enter an order for a civil accounts receivable and a civil judgment of restitution in accordance with Section 77-18-114.
- (2) This section does not prevent a court from exercising jurisdiction over:
 - (a) a contempt proceeding for a defendant under Title 78B, Chapter 6, Part 3, Contempt; or
 - (b) enforcement of a civil accounts receivable or a civil judgment of restitution.

Amended by Chapter 359, 2022 General Session