

Effective 7/1/2021

Part 3
Civil Accounts Receivables and Civil Judgments for Restitution

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 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.

Amended by Chapter 113, 2023 General Session

77-38b-302 Nondischargability in bankruptcy.

A civil judgment of restitution and a civil accounts receivable are considered a debt from a criminal case that may not be discharged in bankruptcy.

Enacted by Chapter 260, 2021 General Session

77-38b-303 Effect of civil action or settlement for criminal conduct -- Issue preclusion -- Crediting payments.

- (1) As used in this section:

- (a) "Civil settlement" or "settlement" means an agreement entered into between a victim and a defendant that settles all the claims that a victim may bring in a civil action against the defendant for the defendant's criminal conduct.
 - (b) "Civil settlement" or "settlement" does not include an agreement that settles a civil judgment of restitution or a civil accounts receivable for a defendant.
- (2) Nothing in this chapter shall be construed to limit or impair the right of a victim to sue and recover damages from the defendant in a civil action.
- (3)
- (a) A court's finding on the amount of restitution owed by a defendant under Subsection 77-38b-205(3) may be used in a civil action pertaining to the defendant's liability to a victim as presumptive proof of the victim's pecuniary damages that are proximately caused by the defendant's criminal conduct.
 - (b) If a conviction in a criminal trial decides the issue of a defendant's liability for pecuniary damages suffered by a victim, the issue of the defendant's liability for pecuniary damages is conclusively determined as to the defendant if the issue is involved in a subsequent civil action.
 - (c)
 - (i) Except as provided in Subsection (3)(c)(ii), if a defendant is convicted of a misdemeanor or felony offense, the defendant is precluded from subsequently denying the essential allegations of the offense in a subsequent civil action brought against the defendant for the criminal conduct underlying the offense.
 - (ii) Subsection (3)(c)(i) does not apply if the offense is a class C misdemeanor under Title 41, Chapter 6a, Traffic Code, or the defendant entered a plea of no contest for the offense.
- (4) If a civil action brought by a victim against a defendant results in a civil judgment for the defendant's criminal conduct or there is a civil settlement entered into between a victim and defendant for the defendant's criminal conduct, the civil judgment or settlement does not limit or preclude:
- (a) the sentencing court from entering an order of restitution against the defendant in accordance with this chapter; or
 - (b) the civil enforcement of a civil judgment of restitution by the office or the victim.
- (5)
- (a) The sentencing court shall credit any payment made to a victim in a civil action for the defendant's criminal conduct toward the amount of restitution owed by the defendant to the victim.
 - (b) In a civil action, a court shall credit any restitution paid by the defendant to a victim for the defendant's criminal conduct towards the victim against any judgment that is in favor of the victim for the civil action.
 - (c) If a victim receives payment from the defendant for the civil action, the victim shall provide notice to the sentencing court and the court in the civil action of the payment within 30 days after the day on which the victim receives the payment.
- (6)
- (a) If a victim prevails in a civil action against a defendant, the court shall award reasonable attorney fees and costs to the victim.
 - (b) If the defendant prevails in the civil action, the court shall award reasonable costs to the defendant if the court finds that the victim brought the civil action for an improper purpose, including to harass the defendant or to cause unnecessary delay or needless increase in the cost of litigation.
- (7)

- (a) The sentencing court shall credit any payment made to a victim as part of a civil settlement toward the amount of restitution owed by the defendant to the victim if the sentencing court determines that the payment compensates the victim for pecuniary damages proximately caused by the defendant's criminal conduct.
- (b) If a victim receives a payment from the defendant as part of a civil settlement, the victim shall provide notice to the sentencing court within 30 days after the day on which the victim receives the payment.
- (8) Nothing in this section shall prevent a defendant from providing proof of payment to the court or the office.
- (9) Notwithstanding Subsections (5) and (6), if a defendant owes dependent support to a victim in an order for restitution:
 - (a) the defendant may not use any payment from a motor vehicle insurance policy to satisfy any amount of dependent support owed by the defendant until all persons entitled to recover in a civil action for the defendant's criminal conduct are made whole; and
 - (b) a court may not credit any payment from the defendant towards the amount of dependent support owed by the defendant against any judgment that is in favor of the victim for a civil action until all persons entitled to recover in a civil action for the defendant's criminal conduct are made whole.

Amended by Chapter 330, 2024 General Session

77-38b-304 Priority of payment disbursement.

- (1) The court, or the office, shall disburse a payment for restitution within 60 days after the day on which the payment is received from the defendant if:
 - (a) the victim has complied with Subsection 77-38b-203(2);
 - (b) if the defendant has tendered a negotiable instrument, funds from the financial institution are actually received;
 - (c) the payment to the victim is at least \$25, unless the payment is the final payment; and
 - (d) there is no pending legal issue that would affect an order for restitution or the distribution of restitution.
- (2) The court shall disburse money collected from a defendant for a criminal accounts receivable in the following order of priority:
 - (a) first, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);
 - (b) second, to the cost of obtaining a DNA specimen from the defendant as described in Subsection (4)(b);
 - (c) third, to any criminal fine or surcharge owed by the defendant;
 - (d) fourth, to the cost owed by the defendant for a reward described in Section 77-32b-104;
 - (e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization, and related transportation paid by a county correctional facility under Section 17-50-319; and
 - (f) sixth, to any other amount owed by the defendant.
- (3) When the office collects money from a defendant for a criminal accounts receivable, a civil accounts receivable, or a civil judgment of restitution, the office shall disburse the money in the following order of priority:
 - (a) first, to any past due amount owed to the department for the monthly supervision fee under Subsection 64-13-21(6)(a);
 - (b) second, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

- (c) third, to the cost of obtaining a DNA specimen from the defendant in accordance with Subsection (4)(b);
 - (d) fourth, to any criminal fine or surcharge owed by the defendant;
 - (e) fifth, to the cost owed by the defendant for a reward described in Section 77-32b-104;
 - (f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization and related transportation paid by a county correctional facility under Section 17-50-319; and
 - (g) seventh, to any other amount owed by the defendant.
- (4)
- (a) If a defendant owes restitution to more than one person or government agency at the same time, the court, or the office, shall disburse a payment for restitution in the following order of priority:
 - (i) first, to the victim of the offense;
 - (ii) second, to the Utah Office for Victims of Crime;
 - (iii) third, any other government agency that has provided reimbursement to the victim as a result of the defendant's criminal conduct; and
 - (iv) fourth, any insurance company that has provided reimbursement to the victim as a result of the defendant's criminal conduct.
 - (b) If a defendant is required under Section 53-10-404 to reimburse the department for the cost of obtaining the defendant's DNA specimen, the reimbursement for the cost of obtaining the defendant's DNA specimen is the next priority after restitution to the victim of the offense under Subsection (4)(a)(i).
 - (c) If a defendant is required to pay restitution to more than one victim, the court or the office shall disburse a payment for restitution proportionally to each victim.
- (5) Notwithstanding the requirements for the disbursement of a payment under Subsection (3) or (4), the office shall disburse money collected from a defendant to a debt that is a part of a civil accounts receivable or civil judgment of restitution if:
- (a) a defendant has provided a written request to the office to apply the payment to the debt; and
 - (b)
 - (i) the payment will eliminate the entire balance of the debt, including any interest; or
 - (ii) after reaching a settlement, the payment amount will eliminate the entire agreed upon balance of the debt, including any interest.
- (6) For a criminal accounts receivable, the department shall collect the current and past due amount owed by a defendant for the monthly supervision fee under Subsection 64-13-21(6)
- (a) until the court enters a civil accounts receivable on the civil judgment docket under Section 77-18-114.
- (7) Notwithstanding any other provision of this section:
- (a) the office may collect a fee, as described in Subsection 63A-3-502(4), from each payment for a criminal accounts receivable, a civil accounts receivable, or a civil judgment of restitution before disbursing the payment as described in this section; and
 - (b) the office shall apply any payment collected through garnishment to the case for which the garnishment was issued.

Amended by Chapter 113, 2023 General Session