

**Effective 5/1/2024**

**77-38b-102 Definitions.**

As used in this chapter:

- (1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.
- (2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
- (3)
  - (a) "Conviction" means:
    - (i) a plea of:
      - (A) guilty;
      - (B) guilty with a mental condition; or
      - (C) no contest; or
    - (ii) a judgment of:
      - (A) guilty; or
      - (B) guilty with a mental condition.
  - (b) "Conviction" does not include:
    - (i) a plea in abeyance until a conviction is entered for the plea in abeyance;
    - (ii) a diversion agreement; or
    - (iii) an adjudication of a minor for an offense under Section 80-6-701.
- (4) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.
- (5) "Criminal conduct" means:
  - (a) any misdemeanor or felony offense of which the defendant is convicted; or
  - (b) any other criminal behavior for which the defendant admits responsibility to the court with or without an admission of committing the criminal behavior.
- (6) "Deceased victim" means an individual whose death is proximately caused by the criminal conduct of the defendant.
- (7)
  - (a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, criminal conduct.
  - (b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80, Chapter 6, Juvenile Justice.
- (8) "Department" means the Department of Corrections.
- (9)
  - (a) "Dependent" means an individual for whom a deceased victim, or a permanently impaired victim, had a legal obligation to provide dependent support at the time of the criminal conduct by the defendant.
  - (b) "Dependent" includes:
    - (i) a child:
      - (A) who is younger than 18 years old; and
      - (B) for whom a deceased victim, or a permanently impaired victim, is the adoptive or biological parent or legal guardian;
    - (ii) an unborn child who has a parent-child relationship with a deceased victim, or a permanently impaired victim, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act; or
    - (iii) an incapacitated individual for whom a deceased victim, or a permanently impaired victim, is the adoptive or biological parent or the legal guardian.
- (10) "Dependent support" means the financial obligation of an individual to provide for the routine needs of a dependent, including food, clothing, health care, safety, or shelter.

- (11) "Diversion agreement" means an agreement entered into by the prosecuting attorney and the defendant that suspends criminal proceedings before conviction on the condition that a defendant agree to participate in a rehabilitation program, pay restitution to the victim, or fulfill some other condition.
- (12) "Incapacitated" or "incapacitation" means the individual is:
  - (a) mentally or physically impaired to the extent that the individual is permanently unable to gain employment and provide basic necessities, including food, clothing, health care, safety, or shelter; and
  - (b) reliant on a parent, legal guardian, or other relative or person to provide basic necessities for the individual.
- (13) "Incapacitated individual" means an individual who is incapacitated.
- (14) "Legal guardian" means an individual appointed by a court to make decisions regarding a child or an incapacitated individual.
- (15) "Life expectancy" means the number of months an individual is or was expected to live considering medical records and experiential data for the individual.
- (16) "Office" means the Office of State Debt Collection created in Section 63A-3-502.
- (17) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- (18)
  - (a) "Pecuniary damages" means all demonstrable economic injury, losses, and expenses regardless of whether the economic injury, losses, and expenses have yet been incurred.
  - (b) "Pecuniary damages" does not include punitive damages or pain and suffering damages.
- (19) "Permanently impaired victim" means an incapacitated individual whose incapacitation is proximately caused by the criminal conduct of the defendant.
- (20) "Plea agreement" means an agreement entered between the prosecuting attorney and the defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.
- (21) "Plea disposition" means an agreement entered into between the prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.
- (22) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.
- (23) "Plea in abeyance agreement" means an agreement entered into between the prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.
- (24) "Restitution" means the payment of pecuniary damages to a victim.
- (25) "Unborn child" means a human fetus or embryo in any stage of gestation from fertilization until birth.
- (26)
  - (a) "Victim" means any person who has suffered pecuniary damages that are proximately caused by the criminal conduct of the defendant.
  - (b) "Victim" includes:
    - (i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes a payment to, or on behalf of, a victim under Section 63M-7-519;
    - (ii) the estate of a deceased victim;

- (iii) a dependent; or
  - (iv) a parent, spouse, intimate partner as defined in 18 U.S.C. Sec. 921, child, or sibling of a victim.
- (c) "Victim" does not include a codefendant or accomplice.

Amended by Chapter 330, 2024 General Session