

**Effective 7/1/2021**

## **Chapter 38b Crime Victims Restitution Act**

### **Part 1 General Provisions**

#### **77-38b-101 Title.**

This chapter is known as the "Crime Victims Restitution Act."

Renumbered and Amended by Chapter 260, 2021 General Session

***Superseded 9/1/2025***

#### **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) "Division" means the Division of Adult Probation and Parole created in Section 64-14-202.
- (13) "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.
- (14) "Incapacitated individual" means an individual who is incapacitated.
- (15) "Legal guardian" means an individual appointed by a court to make decisions regarding a child or an incapacitated individual.
- (16) "Life expectancy" means the number of months an individual is or was expected to live considering medical records and experiential data for the individual.
- (17) "Office" means the Office of State Debt Collection created in Section 63A-3-502.
- (18) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- (19)
  - (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.
- (20) "Permanently impaired victim" means an incapacitated individual whose incapacitation is proximately caused by the criminal conduct of the defendant.
- (21) "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.
- (22) "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.
- (23) "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.

- (24) "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.
- (25) "Restitution" means the payment of pecuniary damages to a victim.
- (26) "Unborn child" means a human fetus or embryo in any stage of gestation from fertilization until birth.
- (27)
  - (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 214, 2025 General Session

***Effective 9/1/2025***

**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 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 81, Chapter 5, Uniform Parentage Act; or
    - (iii) an incapacitated individual for whom a deceased victim, or a permanently impaired victim, is the parent or 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) "Division" means the Division of Adult Probation and Parole created in Section 64-14-202.
- (13) "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.
- (14) "Incapacitated individual" means an individual who is incapacitated.
- (15) "Legal guardian" means an individual appointed by a court to make decisions regarding a child or an incapacitated individual.
- (16) "Life expectancy" means the number of months an individual is or was expected to live considering medical records and experiential data for the individual.
- (17) "Office" means the Office of State Debt Collection created in Section 63A-3-502.
- (18) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- (19)
  - (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.
- (20) "Permanently impaired victim" means an incapacitated individual whose incapacitation is proximately caused by the criminal conduct of the defendant.

- (21) "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.
- (22) "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.
- (23) "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.
- (24) "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.
- (25) "Restitution" means the payment of pecuniary damages to a victim.
- (26) "Unborn child" means a human fetus or embryo in any stage of gestation from fertilization until birth.
- (27)
  - (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 426, 2025 General Session

## **Part 2**

### **Determination of Restitution**

#### **77-38b-201 Law enforcement responsibility for collecting restitution information.**

- (1) A law enforcement agency investigating criminal conduct that would constitute a felony or a misdemeanor shall include information about restitution for any potential victim in the investigative report or the citation, including information about whether a claim for restitution may exist.
- (2) A law enforcement agency shall also include in the investigative report:
  - (a) the basis for the claim for restitution; and
  - (b) the estimated or actual amount of the claim for restitution.

Amended by Chapter 113, 2023 General Session

**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.

Amended by Chapter 526, 2025 General Session

**77-38b-203 Department of Corrections responsibility for collecting restitution information --  
Presentence investigation report -- In camera review of victim information.**

- (1) In preparing a presentence investigation report described in Section 77-18-103, the department shall obtain information on restitution from:
  - (a) the law enforcement agency and the prosecuting attorney; and
  - (b) any victim of the offense or person asserting a claim for restitution on behalf of the victim.

- (2) A victim seeking restitution, a prosecuting attorney, or a person asserting a claim for restitution on behalf of a victim, shall provide the department with:
  - (a) all invoices, bills, receipts, and any other evidence of pecuniary damages;
  - (b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the pecuniary damages for the offense;
  - (c) the victim's proof of identification, including the victim's date of birth, social security number, driver license number; and
  - (d) the victim's or the person's contact information, including next of kin if available, current home and work address, and telephone number.
- (3) In the presentence investigation report, the department shall make every effort to:
  - (a) itemize any pecuniary damages suffered by the victim;
  - (b) include a specific statement on the amount of restitution that the department recommends for each victim; and
  - (c) include a victim impact statement that:
    - (i) provides the name of each victim and any person asserting a claim on behalf of a victim;
    - (ii) describes the effect of the offense on the victim and the victim's family;
    - (iii) describes any physical, mental, or emotional injury suffered by a victim as a result of the offense and the seriousness and permanence of the injury;
    - (iv) describes any change in a victim's personal welfare or familial relationships as a result of the offense;
    - (v) provides any request for mental health services by a victim or a victim's family member as a result of the offense; and
    - (vi) provides any other relevant information regarding the impact of the offense upon a victim or the victim's family.
- (4)
  - (a) A prosecuting attorney and the department may take steps that are reasonably necessary to protect the identity of a victim and the victim's family in information that is submitted to the court under this section.
  - (b) If a defendant seeks to view protected, safeguarded, or confidential information about a victim or a victim's family, the court shall review the information in camera.
  - (c) The court may allow the defendant to view the information under Subsection (4)(b) if the court finds that:
    - (i) the defendant's interest in viewing the information outweighs the victim's or the victim's family safety and privacy interests; and
    - (ii) there are protections in place to safeguard the victim's and the victim's family safety and privacy interests.

Enacted by Chapter 260, 2021 General Session

**77-38b-204 Financial declaration by defendant.**

- (1)
  - (a) The Judicial Council shall design and publish a financial declaration form to be completed by a defendant before the sentencing court establishes a payment schedule under Section 77-38b-205.
  - (b) The financial declaration form shall:
    - (i) require a defendant to disclose all assets, income, and financial liabilities of the defendant, including:
      - (A) real property;

- (B) vehicles;
  - (C) precious metals or gems;
  - (D) jewelry with a value of \$1,000 or more;
  - (E) other personal property with a value of \$1,000 or more;
  - (F) the balance of any bank account and the name of the financial institution for the bank account;
  - (G) cash;
  - (H) salary, wages, commission, tips, and business income, including the name of any employer or entity from which the defendant receives a salary, wage, commission, tip, or business income;
  - (I) pensions and annuities;
  - (J) intellectual property;
  - (K) accounts receivable;
  - (L) accounts payable;
  - (M) mortgages, loans, and other debts; and
  - (N) restitution that has been ordered, and not fully paid, in other cases; and
  - (ii) state that a false statement made in the financial declaration form is punishable as a third degree felony under Section 76-8-504.
- (2) After a plea disposition or conviction has been entered but before sentencing, a defendant shall complete the financial declaration form described in Subsection (1).
- (3) When a civil judgment of restitution or a civil accounts receivable is entered for a defendant on the civil judgment docket under Section 77-18-114, the court shall provide the Office of State Debt Collection with the defendant's financial declaration form.

Amended by Chapter 328, 2022 General Session

**77-38b-205 Order for restitution.**

- (1)
- (a) If a defendant is convicted, as defined in Section 76-3-201, the court shall order a defendant, as part of the sentence imposed under Section 76-3-201, to pay restitution to all victims:
    - (i) in accordance with the terms of any plea agreement in the case; or
    - (ii) for the entire amount of pecuniary damages that are proximately caused to each victim by the criminal conduct of the defendant.
  - (b) If a court enters a plea in abeyance or a diversion agreement for a defendant that includes an agreement to pay restitution, the court shall order the defendant to pay restitution to all victims:
    - (i) in accordance with the terms of the plea in abeyance or the diversion agreement; or
    - (ii) if the terms of the plea in abeyance include an agreement between the parties that restitution will be determined by the court as described in Section 77-2a-3, for the entire amount of pecuniary damages that are proximately caused to each victim by the criminal conduct of the defendant.
- (2)
- (a) Except as provided in Subsection (2)(b), in determining the amount of pecuniary damages under Subsection (1)(a)(ii) or (b)(ii), the court shall consider all relevant facts to establish an amount that fully compensates a victim for all pecuniary damages proximately caused by the criminal conduct of the defendant.



- (b) If the court determines that the defendant owes pecuniary damages to a dependent for dependent support, the court shall establish the amount of dependent support owed to the dependent as described in Section 77-38b-206.
- (c) Subsection (2)(b) does not prohibit the court from also ordering restitution for a victim under Subsection (2)(a) that is not dependent support.
- (3) The court shall enter the determination of the amount of restitution under Subsection (1)(a)(ii) or (b)(ii) as a finding on the record.
- (4) Upon an order for a defendant to pay restitution under Subsection (1), the court shall:
  - (a) enter an order to establish a criminal accounts receivable as described in Section 77-32b-103; and
  - (b) establish a payment schedule for the criminal accounts receivable as described in Section 77-32b-103.
- (5) If the defendant objects to a request for restitution, the court shall allow the defendant to have a hearing on the issue, unless the issue is addressed at the sentencing hearing for the defendant.
- (6) If a court does not enter an order for restitution at sentencing, the court shall schedule a hearing to enter an order for restitution, unless:
  - (a) the court finds as a matter of law that there is no victim in the case; or
  - (b) the prosecuting attorney certifies to the court, on the record, that:
    - (i) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and
    - (ii) all victims, including the Utah Office for Victims of Crime, are not seeking restitution.
- (7)
  - (a) A court shall enter an order for restitution in a defendant's case no later than the earlier of:
    - (i) the termination of the defendant's sentence, including early termination of the defendant's sentence; or
    - (ii)
      - (A) if the defendant is convicted and imprisoned for a first degree felony, within seven years after the day on which the court sentences the defendant for the first degree felony conviction; or
      - (B) except as provided in Subsection (7)(a)(ii)(A), and if the defendant is convicted of a felony, within three years after the day on which the court sentences the defendant for the felony conviction.
  - (b) A request for restitution that is made within the time period described in Subsection (7)(a) tolls the time for which the court must enter an order for restitution under Subsection (7)(a) but does not extend the term of the defendant's probation or period of incarceration.
- (8)
  - (a) If a court does not order restitution at sentencing or at a hearing described in Subsection (6), the prosecuting attorney or the victim may file a motion for restitution within the time periods described in Subsection (7).
  - (b) If the defendant receives notice and does not object to a motion for restitution, the court may order restitution without a hearing.
  - (c) If the defendant receives notice and objects to a motion for restitution, the court may schedule a hearing to determine whether restitution should be ordered if the prosecuting attorney or victim shows good cause.
- (9) Upon a motion from the prosecuting attorney or the victim within the time periods described in Subsection (7), the court may modify an existing order of restitution, including the amount

of pecuniary damages owed by the defendant in the order for restitution, if the prosecuting attorney or the victim shows good cause for modifying the order.

Amended by Chapter 330, 2024 General Session

**77-38b-206 Calculating the amount of restitution owed for dependent support.**

- (1) As used in this section:
  - (a) "Base combined child support obligation table" means the child support table located in Section 78B-12-303.
  - (b) "Gross income" means the amount of income that would be calculated for a parent for child support purposes as described in Section 78B-12-203.
  - (c) "Monthly income" means the amount of monthly income established for a deceased victim, or a permanently impaired victim, under Subsection (3).
- (2) If a defendant owes pecuniary damages to a dependent under Section 77-38b-205, the court shall determine the entire amount of dependent support that the defendant owes a dependent in accordance with this section.
- (3)
  - (a) For purposes of determining a defendant's monthly obligation under Subsection (4), the court shall establish the monthly income of the deceased victim, or the permanently impaired victim, by:
    - (i) calculating the deceased or permanently impaired victim's monthly gross income before the victim's death or incapacitation; and
    - (ii) dividing the deceased or permanently impaired victim's monthly gross income in half.
  - (b) If the amount calculated under Subsection (3)(a)(ii) is \$3,000 or less, the court shall impute a monthly income of \$3,001 to the deceased or permanently impaired victim.
  - (c) If the amount calculated under Subsection (3)(a)(ii) is greater than \$3,000, the deceased or permanently impaired victim's monthly income is the amount calculated under Subsection (3)(a)(ii).
- (4) To calculate the amount of pecuniary damages that a defendant owes a dependent of a deceased victim for dependent support, the court shall:
  - (a) locate the monthly dependent support obligation in the base income child support table using:
    - (i) the deceased victim's monthly income established under Subsection (3)(b) or (c); and
    - (ii) the total number of dependents for which the defendant owes dependent support; and
  - (b) multiply the monthly amount established under Subsection (4)(a) for the dependent by:
    - (i) the number of months until the dependent is 18 years old and is graduated from high school if the dependent is a child; or
    - (ii) the life expectancy of the dependent if the dependent is an incapacitated individual who is 18 years old or older.
- (5) To calculate the amount of pecuniary damages that a defendant owes a dependent of a permanently impaired victim for dependent support, the court shall:
  - (a) locate the monthly dependent support obligation in the base income child support table using:
    - (i) the permanently impaired victim's monthly income established under Subsection (3)(b) or (c); and
    - (ii) the total number of dependents for which the defendant owes dependent support;
  - (b) multiply the monthly amount established under Subsection (5)(a) by the permanently impaired victim's whole person impairment rating as determined by the most recent edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment; and
  - (c) multiply the amount established under Subsection (5)(b) for the dependent by:

- (i) the number of months until the dependent is 18 years old and is graduated from high school if the dependent is a child who is younger than 18 years old; or
  - (ii) the life expectancy of the dependent if the dependent is an incapacitated individual who is 18 years old or older.
- (6) The deceased or permanently impaired victim's monthly income calculated under Subsection (3) is the only income that may be used when locating the monthly dependent support obligation in the base combined child support obligation table.

Enacted by Chapter 330, 2024 General Session

### **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 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.

Amended by Chapter 526, 2025 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 64-14-204(6);
  - (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 64-14-204(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 214, 2025 General Session

## **Part 4**

### **Enforcement and Collection of Restitution**

#### **77-38b-401 Collection from inmate offenders.**

Upon written request of the prosecuting attorney, the victim, or a division agent supervising the defendant, the department shall collect restitution from offender funds held by the department under Section 64-13-23.

Amended by Chapter 214, 2025 General Session

#### **77-38b-402 Preservation of assets.**

- (1)
  - (a) Before, or at the time, a criminal information, indictment charging a violation, or a petition alleging delinquency is filed, or at any time during the prosecution of the case, a prosecuting attorney may, if in the prosecuting attorney's best judgment there is a substantial likelihood that a conviction will be obtained and restitution will be ordered in the case, petition the court to:
    - (i) enter a temporary restraining order, an injunction, or both;
    - (ii) require the execution of a satisfactory performance bond; or
    - (iii) take any other action to preserve the availability of property that may be necessary to satisfy an anticipated order for restitution.
  - (b) A prosecuting attorney may subpoena a document, witness, or other evidence that, in the prosecuting attorney's best judgment, may provide evidence relevant to the property described in Subsection (1)(a)(iii).
- (2)
  - (a) Upon receiving a request from a prosecuting attorney under Subsection (1)(a), and after notice to a person appearing to have an interest in the property and affording the person an opportunity to be heard, the court may take action as requested by the prosecuting attorney if the court determines:
    - (i) there is probable cause to believe that an offense has been committed and that the defendant committed the offense, and that failure to enter the order will likely result in the property being sold, distributed, exhibited, destroyed, or removed from the jurisdiction of the court, or otherwise be made unavailable for restitution; and
    - (ii) the need to preserve the availability of the property or prevent the property's sale, distribution, exhibition, destruction, or removal through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.
  - (b) In a hearing conducted in accordance with this section, a court may consider reliable hearsay as defined in Utah Rules of Evidence, Rule 1102.

- (c) An order for an injunction entered under this section is effective for the period of time given in the order.
- (3)
  - (a) Upon receiving a request for a temporary restraining order from a prosecuting attorney under this section, a court may enter a temporary restraining order against an owner with respect to specific property without notice or opportunity for a hearing if:
    - (i) the prosecuting attorney demonstrates that there is a substantial likelihood that the property with respect to which the order is sought appears to be necessary to satisfy an anticipated restitution order under this chapter; and
    - (ii) provision of notice would jeopardize the availability of the property to satisfy any judgment or order for restitution.
  - (b) The temporary order in this Subsection (3) expires no later than 10 days after the day on which the temporary order is entered unless extended for good cause shown or the party against whom the temporary order is entered consents to an extension.
- (4) A hearing concerning an order entered under this section shall be held as soon as possible, and before the expiration of the temporary order.

Amended by Chapter 328, 2022 General Session