

**PAYMENT OF REWARD UPON ARREST AND
CONVICTION**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Dana C. Love

This act modifies the Crime Victims Restitution Act by providing that a defendant may be required to reimburse a person or entity who has paid a reward for information leading to the arrest and conviction of an offender. This act also provides that a court may require a juvenile to reimburse a person or entity for paying a reward for information leading to the juvenile being found to be within the jurisdiction of the juvenile court due to the commission of a criminal offense.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

76-3-201.1, as last amended by Chapter 135, Laws of Utah 2002

77-38a-102, as enacted by Chapter 137, Laws of Utah 2001

77-38a-404, as last amended by Chapter 140, Laws of Utah 2002

78-3a-118, as last amended by Chapters 2 and 8, Laws of Utah 2002, Fifth Special

Session

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

Section 1. Section **76-3-201.1** is amended to read:

76-3-201.1. Collection of criminal judgment accounts receivable.

(1) As used in this section:

(a) "Criminal judgment accounts receivable" means any amount due the state arising from a criminal judgment for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third party claims, claims, reimbursement of a reward, and damages.

(2) (a) A criminal judgment account receivable ordered by the court as a result of

prosecution for a criminal offense may be collected by any means authorized by law for the collection of a civil judgment.

(b) (i) The court may permit a defendant to pay a criminal judgment account receivable in installments.

(ii) In the district court, if the criminal judgment account receivable is paid in installments, the total amount due shall include all fines, surcharges, postjudgment interest, and fees.

(c) Upon default in the payment of a criminal judgment account receivable or upon default in the payment of any installment of that receivable, the criminal judgment account receivable may be collected as provided in this section or Subsection 77-18-1(9) or (10), and by any means authorized by law for the collection of a civil judgment.

(3) When a defendant defaults in the payment of a criminal judgment account receivable or any installment of that receivable, the court, on motion of the prosecution, victim, or upon its own motion may:

(a) order the defendant to appear and show cause why the default should not be treated as contempt of court; or

(b) issue a warrant of arrest.

(4) (a) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure to make a good faith effort to make the payment, the court may find that the default constitutes contempt.

(b) Upon a finding of contempt, the court may order the defendant committed until the criminal judgment account receivable, or a specified part of it, is paid.

(5) If it appears to the satisfaction of the court that the default is not contempt, the court may enter an order for any of the following or any combination of the following:

(a) require the defendant to pay the criminal judgment account receivable or a specified part of it by a date certain;

(b) restructure the payment schedule;

(c) restructure the installment amount;

(d) except as provided in Section 77-18-8, execute the original sentence of imprisonment;

(e) start the period of probation anew;

(f) except as limited by Subsection (6), convert the criminal judgment account receivable or any part of it to community service;

(g) except as limited by Subsection (6), reduce or revoke the unpaid amount of the criminal judgment account receivable; or

(h) in the district court, record the unpaid balance of the criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the judgment to the Office of State Debt Collection.

(6) In issuing an order under this section, the court may not modify the amount of the judgment of complete restitution.

(7) Whether or not a default constitutes contempt, the court may add to the amount owed the fees established under Subsection 63A-8-201(4)(g) and postjudgment interest.

(8) (a) (i) If a criminal judgment account receivable is past due in a case supervised by the Department of Corrections, the judge shall determine whether or not to record the unpaid balance of the account receivable as a civil judgment.

(ii) If the judge records the unpaid balance of the account receivable as a civil judgment, the judge shall transfer the responsibility for collecting the judgment to the Office of State Debt Collection.

(b) If a criminal judgment account receivable in a case not supervised by the Department of Corrections is past due, the district court may, without a motion or hearing, record the unpaid balance of the criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the account receivable to the Office of State Debt Collection.

(c) If a criminal judgment account receivable in a case not supervised by the Department of Corrections is more than 90 days past due, the district court shall, without a motion or hearing, record the unpaid balance of the criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the criminal judgment account receivable to the Office of

State Debt Collection.

(9) (a) When a fine, forfeiture, surcharge, cost permitted by statute, fee, or an order of restitution is imposed on a corporation or unincorporated association, the person authorized to make disbursement from the assets of the corporation or association shall pay the obligation from those assets.

(b) Failure to pay the obligation may be held to be contempt under Subsection (3).

(10) The prosecuting attorney may collect restitution in behalf of a victim.

Section 2. Section **77-38a-102** is amended to read:

77-38a-102. Definitions.

As used in this chapter:

(1) "Conviction" includes a:

- (a) judgment of guilt;
- (b) a plea of guilty; or
- (c) a plea of no contest.

(2) "Criminal activities" means any offense of which the defendant is convicted or any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.

(3) "Department" means the Department of Corrections.

(4) "Diversion" means suspending criminal proceedings prior to conviction on the condition that a defendant agree to participate in a rehabilitation program, make restitution to the victim, or fulfill some other condition.

(5) "Party" means the prosecutor, defendant, or department involved in a prosecution.

(6) "Pecuniary damages" means all special damages, but not general damages, which a person could recover against the defendant in a civil action arising out of the facts or events constituting the defendant's criminal activities and includes the money equivalent of property taken, destroyed, broken, or otherwise harmed, and losses including earnings and medical expenses.

(7) "Plea agreement" means an agreement entered between the prosecution and defendant

setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

(8) "Plea in abeyance" means an order by a court, upon motion of the prosecution 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 him nor imposing sentence upon him on condition that he comply with specific conditions as set forth in a plea in abeyance agreement.

(9) "Plea in abeyance agreement" means an agreement entered into between the prosecution 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.

(10) "Plea disposition" means an agreement entered into between the prosecution and defendant including diversion, plea agreement, 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.

(11) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, including prejudgment interest, the accrual of interest from the time of sentencing, insured damages, reimbursement for payment of a reward, and payment for expenses to a governmental entity for extradition or transportation and as may be further defined by law.

(12) (a) "Reward" means a sum of money:

(i) offered to the public for information leading to the arrest and conviction of an offender; and

(ii) that has been paid to a person or persons who provide this information, except that the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.

(b) "Reward" does not include any amount paid in excess of the sum offered to the public.

~~(12)~~ (13) "Screening" means the process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted.

~~(13)~~ (14) (a) "Victim" means any person whom the court determines has suffered

pecuniary damages as a result of the defendant's criminal activities.

(b) "Victim" may not include a codefendant or accomplice.

Section 3. Section **77-38a-404** is amended to read:

77-38a-404. Priority.

(1) If restitution to more than one person, agency, or entity is set at the same time, the department shall establish the following priorities of payment, except as provided in Subsection (2):

(a) the crime victim;

(b) the Office of Crime Victim Reparations;

(c) any other government agency which has provided reimbursement to the victim as a result of the offender's criminal conduct; and

(d) the person, entity, or governmental agency that has offered and paid a reward under Section 76-3-201.1 or 78-3a-118;

~~[(d)]~~ (e) any insurance company which has provided reimbursement to the victim as a result of the offender's criminal conduct.

(2) If the offender is required under Section 53-10-404 to reimburse the department for the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority after restitution to the crime victim under Subsection (1)(a).

(3) All money collected for court-ordered obligations from offenders by the department will be applied:

(a) first, to victim restitution, except the \$30 per month required to be collected by the department under Section 64-13-21, if applicable; and

(b) second, if applicable, to the cost of obtaining a DNA specimen under Subsection (2).

Section 4. Section **78-3a-118** is amended to read:

78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court -- Obtaining DNA sample.

(1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the court shall so adjudicate. The court shall make a finding of the facts upon which it bases its

jurisdiction over the minor. However, in cases within the provisions of Subsection 78-3a-104(1), findings of fact are not necessary.

(b) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include the specific offenses for which the minor was adjudicated.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) The court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including compensatory service as provided in Section 78-11-20.7.

(ii) The court may place the minor in state supervision with the probation department of the court, under the legal custody of:

- (A) his parent or guardian;
- (B) the Division of Youth Corrections; or
- (C) the Division of Child and Family Services.

(iii) If the court orders probation or state supervision, the court shall direct that notice of its order be provided to designated persons in the local law enforcement agency and the school or transferee school, if applicable, which the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iv) Any employee of the local law enforcement agency and the school which the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or malice as provided in Section 63-30-4; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable person, with or without probation or protective supervision, but the juvenile court may not

assume the function of developing foster home services.

(c) (i) The court may:

(A) vest legal custody of the minor in the Division of Child and Family Services, Division of Youth Corrections, or the Division of Substance Abuse and Mental Health; and

(B) order the Department of Human Services to provide dispositional recommendations and services.

(ii) For minors who may qualify for services from two or more divisions within the Department of Human Services, the court may vest legal custody with the department.

(iii) (A) Minors who are committed to the custody of the Division of Child and Family Services on grounds other than abuse or neglect are subject to the provisions of Title 78, Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

(B) Prior to the court entering an order to place a minor in the custody of the Division of Child and Family Services on grounds other than abuse or neglect, the court shall provide the division with notice of the hearing no later than five days before the time specified for the hearing so the division may attend the hearing.

(C) Prior to committing a minor to the custody of the Division of Child and Family Services, the court shall make a finding as to what reasonable efforts have been attempted to prevent the minor's removal from his home.

(d) (i) The court may commit the minor to the Division of Youth Corrections for secure confinement.

(ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of Youth Corrections.

(e) The court may commit the minor, subject to the court retaining continuing jurisdiction over him, to the temporary custody of the Division of Youth Corrections for observation and evaluation for a period not to exceed 45 days, which period may be extended up to 15 days at the request of the director of the Division of Youth Corrections.

(f) (i) The court may commit the minor to a place of detention or an alternative to detention for a period not to exceed 30 days subject to the court retaining continuing jurisdiction over the minor. This commitment may be stayed or suspended upon conditions ordered by the court.

(ii) This Subsection (2)(f) applies only to those minors adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78-3a-901.

(g) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

(h) The court may place the minor on a ranch or forestry camp, or similar facility for care and also for work, if possible, if the person, agency, or association operating the facility has been approved or has otherwise complied with all applicable state and local laws. A minor placed in a forestry camp or similar facility may be required to work on fire prevention, forestation and reforestation, recreational works, forest roads, and on other works on or off the grounds of the facility and may be paid wages, subject to the approval of and under conditions set by the court.

(i) (A) The court may order the minor to repair, replace, or otherwise make restitution for damage or loss caused by the minor's wrongful act, including costs of treatment as stated in Section 78-3a-318 and impose fines in limited amounts.

(B) The court may also require the minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(C) If a minor has been returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(j) The court may issue orders necessary for the collection of restitution and fines ordered

by the court, including garnishments, wage withholdings, and executions.

(k) (i) The court may through its probation department encourage the development of employment or work programs to enable minors to fulfill their obligations under Subsection (2)(i) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit the minor found to be within the jurisdiction of the court to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) The court may enter any other disposition under Subsection (2)(l)(i); however, the suspension of driving privileges for an offense under Section 78-3a-506 are governed only by Section 78-3a-506.

(m) (i) When a minor is found within the jurisdiction of the juvenile court under Section 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court shall, in addition to any fines or fees otherwise imposed, order that the minor perform a minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.

(ii) When a minor is found within the jurisdiction of the juvenile court under Section 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.

(n) The court may order that the minor be examined or treated by a physician, surgeon, psychiatrist, or psychologist or that he receive other special care. For these purposes the court may place the minor in a hospital or other suitable facility.

(o) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of the minor's parents.

(p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable conditions to be complied with by the parents or guardian, the minor, the minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

- (A) parent-time by the parents or one parent;
- (B) restrictions on the minor's associates;
- (C) restrictions on the minor's occupation and other activities; and
- (D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(q) The court may order the minor to be placed in the legal custody of the Division of Substance Abuse and Mental Health or committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(r) (i) The court may make an order committing a minor within its jurisdiction to the Utah State Developmental Center if the minor has mental retardation in accordance with the provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility.

(ii) The court shall follow the procedure applicable in the district courts with respect to

judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(r)(i).

(s) The court may terminate all parental rights upon a finding of compliance with the provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.

(t) The court may make any other reasonable orders for the best interest of the minor or as required for the protection of the public, except that a person younger than 18 years of age may not be committed to jail or prison.

(u) The court may combine the dispositions listed in this section if they are compatible.

(v) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their minor. The court may transfer custody of a minor to another person, agency, or institution in accordance with the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

(w) Except as provided in Subsection (2)(y)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review of the case by the court. A new date shall be set upon each review.

(x) In reviewing foster home placements, special attention shall be given to making adoptable minors available for adoption without delay.

(y) (i) The juvenile court may enter an order of permanent custody and guardianship with a relative or individual of a minor where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency, excluding cases arising under Subsection 78-3a-105(4).

(ii) Orders under Subsection (2)(y)(i):

(A) shall remain in effect until the minor reaches majority;

(B) are not subject to review under Section 78-3a-119; and

(C) may be modified by petition or motion as provided in Section 78-3a-903.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) In addition to the dispositions described in Subsection (2), when a minor comes within the court's jurisdiction he may be given a choice by the court to serve in the National Guard in lieu of other sanctions, provided:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the minor is not under the jurisdiction of the court for any act that:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Youth Corrections, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that employees designated to collect the saliva DNA specimens receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78-3a-318.