

1 **CRIMINAL RESTITUTION AMENDMENTS**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Rebecca D. Lockhart

7 **LONG TITLE**

8 **General Description:**

9 This bill extends the expiration date of criminal restitution orders indefinitely.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ provides that there is no statute of limitations on criminal restitution orders;
- 13 ▶ provides that the victim shall be entitled to recover collection fees if the defendant
- 14 fails to obey a court order for payment of restitution;
- 15 ▶ provides that payment in full of a restitution order includes the payment of any
- 16 applicable collection fees, attorney fees, and interest; and
- 17 ▶ provides that the expiration date of criminal restitution orders applies to all
- 18 restitution judgments that are not paid in full on or before May 12, 2009.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **77-38a-401**, as last amended by Laws of Utah 2008, Chapter 382

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

28 Section 1. Section **77-38a-401** is amended to read:

29 **77-38a-401. Entry of judgment -- Interest -- Civil actions -- Lien.**

30 (1) Upon the court determining that a defendant owes restitution, the clerk of the court
31 shall enter an order of complete restitution as defined in Section 77-38a-302 on the civil
32 judgment docket and provide notice of the order to the parties.

33 (2) The order shall be considered a legal judgment, enforceable under the Utah Rules
34 of Civil Procedure. In addition, the department may, on behalf of the person in whose favor
35 the restitution order is entered, enforce the restitution order as judgment creditor under the
36 Utah Rules of Civil Procedure.

37 (3) If the defendant fails to obey a court order for payment of restitution and the victim
38 or department elects to pursue collection of the order by civil process, the victim shall be
39 entitled to recover collection and reasonable ~~[attorney's]~~ attorney fees.

40 (4) ~~[A] Notwithstanding Section 78B-2-311, a judgment ordering restitution when~~
41 ~~[recorded in a registry of judgments] entered on the civil judgment~~ docket shall have the same
42 affect and is subject to the same rules as a judgment in a civil action and expires only upon
43 payment in full, which includes applicable interest, collection fees, and attorney fees. Interest
44 shall accrue on the amount ordered from the time of sentencing, including prejudgment
45 interest. This Subsection (4) applies to all restitution judgements not paid in full on or before
46 May 12, 2009.

47 (5) The department shall make rules permitting the restitution payments to be credited
48 to principal first and the remainder of payments credited to interest in accordance with Title
49 63G, Chapter 3, Utah Administrative Rulemaking Act.