

SB0252S01 compared with SB0252

~~text~~ shows text that was in SB0252 but was deleted in SB0252S01.

Inserted text shows text that was not in SB0252 but was inserted into SB0252S01.

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Senator Daniel McCay proposes the following substitute bill:

FINES AND FEES AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to fines ~~and prohibits arrest warrants for certain fines~~.

Highlighted Provisions:

This bill:

▶ clarifies when a fine for an individual may apply;

▶ ~~prohibits the issuance of an arrest warrant for certain fines;~~ and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

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Utah Code Sections Affected:

AMENDS:

76-3-301 (Effective 07/01/19), as last amended by Laws of Utah 2018, Chapter 234

~~{ **77-32a-104**, as enacted by Laws of Utah 2017, Chapter 304~~

~~— **78B-6-317**, as enacted by Laws of Utah 2017, Chapter 304~~

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

Section 1. Section **76-3-301 (Effective 07/01/19)** is amended to read:

76-3-301 (Effective 07/01/19). Fines of individuals.

(1) An individual convicted of an offense may be sentenced to pay a fine, not exceeding:

- (a) \$10,000 for a felony conviction of the first degree or second degree;
- (b) \$5,000 for a felony conviction of the third degree;
- (c) \$2,500 for a class A misdemeanor conviction;
- (d) \$1,000 for a class B misdemeanor conviction;
- (e) \$750 for a class C misdemeanor conviction or infraction conviction; and
- (f) any greater amounts specifically authorized by statute.

(2) (a) An individual convicted of a misdemeanor or infraction and sentenced to pay a fine may not be charged by a court:

(i) notwithstanding Section 15-1-4, interest on the judgment that in the aggregate is more than 25% of the initial fine; or

(ii) ~~[by a court]~~ that issues an order to show cause under Section 78B-6-317 for failure to pay the fine, interest that is more than 25% of the initial fine.

(b) An individual convicted of an infraction and sentenced to pay a fine may not be charged:

(i) by the Office of State Debt Collection, late fees and interest that in the aggregate are more than 25% of the initial fine; or

(ii) by a third-party debt ~~[collector, late fees and interest in the aggregate that are more than 25% of the initial fine]~~ contractor of the Office of State Debt Collection, additional fees.

(3) Subsection (2) does not apply to ~~[an offense]~~ a case that includes:

- (a) victim restitution; or

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(b) a felony conviction, even if that felony conviction is later reduced.

(4) This section does not apply to a corporation, association, partnership, government, or governmental instrumentality.

Section 2. ~~Section 77-32a-104 is amended to read:~~

~~77-32a-104. Delinquency and default as contempt of court.~~

~~(1) If a criminal judgment accounts receivable, or any installment due, becomes delinquent, the court, upon motion of the prosecutor, a judgment creditor, or upon the court's own motion, may order the defendant to appear and show cause why the delinquency should not be treated as contempt of court as provided in Section 78B-6-317.~~

~~(2) After the hearing, if it appears to the satisfaction of the court that the delinquency 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 the criminal judgment account receivable by a date certain;~~

~~(b) restructure the payment schedule;~~

~~(c) restructure the installment amount;~~

~~(d) except as limited by Subsection (4), satisfy the criminal judgment account receivable or any part of the criminal judgment account receivable with proof of compensatory service at a rate of credit at not less than \$10 for each hour of compensatory service;~~

~~(e) except as limited by Subsection (4), reduce or revoke the unpaid amount of the criminal judgment account receivable; or~~

~~(f) 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.~~

~~(3) The court may add postjudgment interest to the total accounts receivable if not previously ordered or included.~~

~~(4) If the court determines that the delinquency does constitute contempt the court shall address the contempt as provided in Section 78B-6-310.~~

~~(5) In issuing an order under this section, the court may not modify the amount of the judgment of complete restitution.~~

~~(6) If the defendant is a corporation or unincorporated association, any contempt~~

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~~proceeding authorized by this section shall cite the person authorized to make disbursement from the assets of the corporation or association:~~

~~—— (7) A court may not issue an arrest warrant in relation to a fine that is less than \$1,000 for:~~

- ~~—— (a) failure to pay the fine;~~
- ~~—— (b) an order to show cause;~~
- ~~—— (c) contempt of court;~~
- ~~—— (d) failure to appear; or~~
- ~~—— (e) any other reason.~~

~~—— Section 3. Section 78B-6-317 is amended to read:~~

~~—— 78B-6-317. Willful failure to pay criminal judgment accounts receivable.~~

~~—— (1) If a criminal judgment accounts receivable has become delinquent as defined in Section 77-32a-101, the court, by motion of the prosecutor, a judgment creditor, the Office of State Debt Collection, or on the court's own motion, may order the defendant to appear and show cause why the delinquency should not be treated as contempt of court, as provided in this section:~~

~~—— (2) (a) The moving party or a court clerk shall provide a declaration outlining the nature of the debt and the delinquency:~~

~~—— (b) Upon receipt of that declaration, the court shall set the matter for a hearing and provide notice of the hearing to the defendant by mailing notice of the hearing to the defendant's last known address and by any other means the court finds likely to provide defendant notice of the hearing:~~

~~—— (i) If it appears to the court that the defendant is not likely to appear at the hearing, the court may issue an arrest warrant with a bail amount reasonably likely to guarantee the defendant's appearance:~~

~~—— (ii) If the defendant is a corporation or an unincorporated association, the court shall cite the person authorized to make disbursement from the assets of the corporation or association to appear to answer for the alleged contempt.~~

~~—— (3) At the hearing the defendant is entitled to be represented by counsel and, if the court is considering a period of incarceration as a potential sanction, appointed counsel if the defendant is indigent.~~

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~~—— (4) To find the defendant in contempt, the court shall find beyond a reasonable doubt that the defendant:~~

~~—— (a) was aware of the obligation to pay the criminal judgment accounts receivable;~~

~~—— (b) had the capacity to pay the criminal judgment accounts receivable in the manner ordered by the court; and~~

~~—— (c) did not make a good faith effort to make the payments.~~

~~—— (5) If the court finds the defendant in contempt for nonpayment, the court may impose the sanctions for contempt as provided in Section 78B-6-310, subject to the limitations in Subsections (6) through (8).~~

~~—— (6) If the court imposes a jail sanction for the contempt, the number of jail days may not exceed one day for each \$100 of the amount the court finds was contemptuously unpaid, up to a maximum of five days for contempt arising from a class B misdemeanor or lesser offense, and 30 days for a class A misdemeanor or felony offense.~~

~~—— (7) Any jail sanction imposed for contempt under this section shall serve to satisfy the criminal judgment account receivable at \$100 for each day served. Amounts satisfied under this Subsection (7) may not include restitution amounts ordered by the court in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act.~~

~~—— (8) Any financial penalty authorized by Section 78B-6-310 and ordered by the court may only become due after the satisfaction of the original criminal account receivable.~~

~~—— (9) The order of the court finding the defendant in contempt and ordering sanctions is a final appealable order.~~

~~—— (10) A court may not issue an arrest warrant in relation to a fine that is less than \$1,000 for:~~

~~—— (a) failure to pay the fine;~~

~~—— (b) an order to show cause;~~

~~—— (c) contempt of court;~~

~~—— (d) failure to appear; or~~

~~—— (e) any other reason.~~

~~—— Section 4.} **Effective date.**~~

~~This bill takes effect on May 14, 2019, except that the amendments to Section 76-3-301 (Effective 07/01/19) takes effect on} July 1, 2019.~~

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