

CRIMINAL JUSTICE REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes in the handling of criminal judgment accounts receivable and probation and parole violations.

Highlighted Provisions:

This bill:

- ▶ requires a court to determine reasonable monthly payments for criminal judgment accounts receivables;
- ▶ with the exception of restitution, allows a court or the Board of Pardons and Parole to reduce or waive the remainder of an account receivable after the defendant has made at least 12 monthly payments;
- ▶ provides that the Office of State Debt Collection shall pause collection of and interest accrual on a criminal judgment account receivable while a defendant is incarcerated;
- ▶ allows a defendant under certain circumstances to petition the court, Board of Pardons and Parole, or the Office of State Debt Collection to defer, reduce, or waive all or part of an amount due;
- ▶ requires quarterly reports to the Commission on Criminal and Juvenile Justice from jails regarding the number of inmates who are incarcerated for technical violations of probation and parole;
- ▶ requires the Department of Corrections to report to the Commission on Criminal



28 and Juvenile Justice quarterly the number of probation and parole violations resulting in
29 revocations;

30 ▶ requires the Division of Substance Abuse and Mental Health to collect data
31 regarding behavioral health providers for criminal justice involved individuals; and

32 ▶ makes technical and conforming changes.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **17-22-32**, as last amended by Laws of Utah 2019, Chapter 311

40 **62A-15-103**, as last amended by Laws of Utah 2019, Chapters 110, 440, and 441

41 **62A-15-625**, as last amended by Laws of Utah 2018, Chapter 322

42 **63A-3-502**, as last amended by Laws of Utah 2017, Chapters 56 and 304

43 **63M-7-404**, as last amended by Laws of Utah 2018, Chapter 334

44 **64-13-21**, as last amended by Laws of Utah 2019, Chapter 27

45 **76-3-202**, as last amended by Laws of Utah 2018, Chapter 334

46 **77-18-1**, as last amended by Laws of Utah 2019, Chapters 28 and 429

47 **77-27-5**, as last amended by Laws of Utah 2019, Chapter 148

48 **77-32a-102**, as last amended by Laws of Utah 2018, Chapters 136 and 281

49 **77-32a-105**, as enacted by Laws of Utah 2017, Chapter 304

50 **77-38a-501**, as last amended by Laws of Utah 2017, Chapter 304

51

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

53 Section 1. Section **17-22-32** is amended to read:

54 **17-22-32. County jail reporting requirements.**

55 (1) As used in this section:

56 (a) (i) "In-custody death" means an inmate death that occurs while the inmate is in the
57 custody of a county jail.

58 (ii) "In-custody death" includes an inmate death that occurs while the inmate is:

59 (A) being transported for medical care; or

60 (B) receiving medical care outside of a county jail.

61 (b) "Inmate" means an individual who is processed or booked into custody or housed in
62 a county jail in the state.

63 (c) "Opiate" means the same as that term is defined in Section 58-37-2.

64 (2) A county jail shall submit a report to the Commission on Criminal and Juvenile
65 Justice, created in Section 63M-7-201, before June 15 of each year that includes:

66 (a) the number of in-custody deaths that occurred during the preceding calendar year;

67 (b) the known, or discoverable on reasonable inquiry, causes and contributing factors
68 of each of the in-custody deaths described in Subsection (2)(a);

69 (c) the county jail's policy for notifying an inmate's next of kin after the inmate's
70 in-custody death;

71 (d) the county jail policies, procedures, and protocols:

72 (i) for treatment of an inmate experiencing withdrawal from alcohol or substance use,
73 including use of opiates;

74 (ii) that relate to the county jail's provision, or lack of provision, of medications used to
75 treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all
76 forms of buprenorphine and naltrexone; and

77 (iii) that relate to screening, assessment, and treatment of an inmate for a substance use
78 or mental health disorder; and

79 (e) any report the county jail provides or is required to provide under federal law or
80 regulation relating to inmate deaths.

81 (3) Each county jail shall report quarterly to the Commission on Criminal and Juvenile
82 Justice:

83 (a) the number and proportion of the population of supervision violators in jail; and

84 (b) the number of days spent in jail by supervision violators.

85 [~~3~~] (4) The Commission on Criminal and Juvenile Justice shall:

86 (a) compile the information from the reports described in Subsection (2);

87 (b) omit or redact any identifying information of an inmate in the compilation to the
88 extent omission or redaction is necessary to comply with state and federal law; and

89 (c) submit the compilation to the Law Enforcement and Criminal Justice Interim

90 Committee and the Utah Substance Use and Mental Health Advisory Council before November
91 1 of each year.

92 [~~(4)~~] (5) The Commission on Criminal and Juvenile Justice may not provide access to
93 or use a county jail's policies, procedures, or protocols submitted under this section in a manner
94 or for a purpose not described in this section.

95 Section 2. Section **62A-15-103** is amended to read:

96 **62A-15-103. Division -- Creation -- Responsibilities.**

97 (1) (a) There is created the Division of Substance Abuse and Mental Health within the
98 department, under the administration and general supervision of the executive director.

99 (b) The division is the substance abuse authority and the mental health authority for
100 this state.

101 (2) The division shall:

102 (a) (i) educate the general public regarding the nature and consequences of substance
103 abuse by promoting school and community-based prevention programs;

104 (ii) render support and assistance to public schools through approved school-based
105 substance abuse education programs aimed at prevention of substance abuse;

106 (iii) promote or establish programs for the prevention of substance abuse within the
107 community setting through community-based prevention programs;

108 (iv) cooperate with and assist treatment centers, recovery residences, and other
109 organizations that provide services to individuals recovering from a substance abuse disorder,
110 by identifying and disseminating information about effective practices and programs;

111 (v) except as provided in Section [62A-15-103.5](#), make rules in accordance with Title
112 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public
113 and private programs, minimum standards for public and private providers of substance abuse
114 and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure
115 of Programs and Facilities;

116 (vi) promote integrated programs that address an individual's substance abuse, mental
117 health, physical health, and criminal risk factors;

118 (vii) establish and promote an evidence-based continuum of screening, assessment,
119 prevention, treatment, and recovery support services in the community for individuals with
120 substance use disorder and mental illness that addresses criminal risk factors;

- 121 (viii) evaluate the effectiveness of programs described in this Subsection (2);
122 (ix) consider the impact of the programs described in this Subsection (2) on:
123 (A) emergency department utilization;
124 (B) jail and prison populations;
125 (C) the homeless population; and
126 (D) the child welfare system; ~~and~~
127 (x) promote or establish programs for education and certification of instructors to
128 educate persons convicted of driving under the influence of alcohol or drugs or driving with
129 any measurable controlled substance in the body;
- 130 (b) (i) collect and disseminate information pertaining to mental health;
131 (ii) provide direction over the state hospital including approval of its budget,
132 administrative policy, and coordination of services with local service plans;
- 133 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
134 Rulemaking Act, to educate families concerning mental illness and promote family
135 involvement, when appropriate, and with patient consent, in the treatment program of a family
136 member; and
- 137 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
138 Rulemaking Act, to direct that an individual receiving services through a local mental health
139 authority or the Utah State Hospital be informed about and, if desired by the individual,
140 provided assistance in the completion of a declaration for mental health treatment in
141 accordance with Section [62A-15-1002](#);
- 142 (c) (i) consult and coordinate with local substance abuse authorities and local mental
143 health authorities regarding programs and services;
- 144 (ii) provide consultation and other assistance to public and private agencies and groups
145 working on substance abuse and mental health issues;
- 146 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
147 medical and social agencies, public health authorities, law enforcement agencies, education and
148 research organizations, and other related groups;
- 149 (iv) promote or conduct research on substance abuse and mental health issues, and
150 submit to the governor and the Legislature recommendations for changes in policy and
151 legislation;

152 (v) receive, distribute, and provide direction over public funds for substance abuse and
153 mental health services;

154 (vi) monitor and evaluate programs provided by local substance abuse authorities and
155 local mental health authorities;

156 (vii) examine expenditures of local, state, and federal funds;

157 (viii) monitor the expenditure of public funds by:

158 (A) local substance abuse authorities;

159 (B) local mental health authorities; and

160 (C) in counties where they exist, a private contract provider that has an annual or
161 otherwise ongoing contract to provide comprehensive substance abuse or mental health
162 programs or services for the local substance abuse authority or local mental health authority;

163 (ix) contract with local substance abuse authorities and local mental health authorities
164 to provide a comprehensive continuum of services that include community-based services for
165 individuals involved in the criminal justice system, in accordance with division policy, contract
166 provisions, and the local plan;

167 (x) contract with private and public entities for special statewide or nonclinical
168 services, or services for individuals involved in the criminal justice system, according to
169 division rules;

170 (xi) review and approve each local substance abuse authority's plan and each local
171 mental health authority's plan in order to ensure:

172 (A) a statewide comprehensive continuum of substance abuse services;

173 (B) a statewide comprehensive continuum of mental health services;

174 (C) services result in improved overall health and functioning;

175 (D) a statewide comprehensive continuum of community-based services designed to
176 reduce criminal risk factors for individuals who are determined to have substance abuse or
177 mental illness conditions or both, and who are involved in the criminal justice system;

178 (E) compliance, where appropriate, with the certification requirements in Subsection
179 (2)(j); and

180 (F) appropriate expenditure of public funds;

181 (xii) review and make recommendations regarding each local substance abuse
182 authority's contract with the local substance abuse authority's provider of substance abuse

183 programs and services and each local mental health authority's contract with the local mental
184 health authority's provider of mental health programs and services to ensure compliance with
185 state and federal law and policy;

186 (xiii) monitor and ensure compliance with division rules and contract requirements;

187 and

188 (xiv) withhold funds from local substance abuse authorities, local mental health
189 authorities, and public and private providers for contract noncompliance, failure to comply
190 with division directives regarding the use of public funds, or for misuse of public funds or
191 money;

192 (d) ensure that the requirements of this part are met and applied uniformly by local
193 substance abuse authorities and local mental health authorities across the state;

194 (e) require each local substance abuse authority and each local mental health authority,
195 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to
196 the division on or before May 15 of each year;

197 (f) conduct an annual program audit and review of each local substance abuse authority
198 and each local substance abuse authority's contract provider, and each local mental health
199 authority and each local mental health authority's contract provider, including:

200 (i) a review and determination regarding whether:

201 (A) public funds allocated to the local substance abuse authority or the local mental
202 health authorities are consistent with services rendered by the authority or the authority's
203 contract provider, and with outcomes reported by the authority's contract provider; and

204 (B) each local substance abuse authority and each local mental health authority is
205 exercising sufficient oversight and control over public funds allocated for substance use
206 disorder and mental health programs and services; and

207 (ii) items determined by the division to be necessary and appropriate; [~~and~~]

208 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
209 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

210 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer
211 supports services to an individual with:

212 (A) a substance use disorder;

213 (B) a mental health disorder; or

- 214 (C) a substance use disorder and a mental health disorder;
- 215 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
- 216 adult as a peer support specialist;
- 217 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 218 Rulemaking Act, that:
 - 219 (A) establish training and certification requirements for a peer support specialist;
 - 220 (B) specify the types of services a peer support specialist is qualified to provide;
 - 221 (C) specify the type of supervision under which a peer support specialist is required to
 - 222 operate; and
 - 223 (D) specify continuing education and other requirements for maintaining or renewing
 - 224 certification as a peer support specialist; [~~and~~]
- 225 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 226 Rulemaking Act, that:
 - 227 (A) establish the requirements for a person to be certified to carry out, as needed, the
 - 228 division's duty to train and certify an adult as a peer support specialist; and
 - 229 (B) specify how the division shall provide oversight of a person certified to train and
 - 230 certify a peer support specialist;
 - 231 (i) except as provided in Section [62A-15-103.5](#), establish by rule, in accordance with
 - 232 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and
 - 233 requirements for the provision of substance use disorder and mental health treatment to an
 - 234 individual who is incarcerated or who is required to participate in treatment by a court or by the
 - 235 Board of Pardons and Parole, including:
 - 236 (i) collaboration with the Department of Corrections and the Utah Substance Use and
 - 237 Mental Health Advisory Council to develop and coordinate the standards, including standards
 - 238 for county and state programs serving individuals convicted of class A and class B
 - 239 misdemeanors;
 - 240 (ii) determining that the standards ensure available treatment, including the most
 - 241 current practices and procedures demonstrated by recognized scientific research to reduce
 - 242 recidivism, including focus on the individual's criminal risk factors; and
 - 243 (iii) requiring that all public and private treatment programs meet the standards
 - 244 established under this Subsection (2)(i) in order to receive public funds allocated to the

245 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
246 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

247 (j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with
248 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures
249 for the certification of licensed public and private providers, including individuals licensed by
250 the Division of Occupational and Professional Licensing, programs licensed by the department,
251 and health care facilities licensed by the Department of Health, who provide, as part of their
252 practice, substance use disorder and mental health treatment to an individual involved in the
253 criminal justice system, including:

254 (i) collaboration with the Department of Corrections, the Utah Substance Use and
255 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,
256 and implement the certification process;

257 (ii) basing the certification process on the standards developed under Subsection (2)(i)
258 for the treatment of an individual involved in the criminal justice system; and

259 (iii) the requirement that a public or private provider of treatment to an individual
260 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
261 shall renew the certification every two years, in order to qualify for funds allocated to the
262 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
263 on or after July 1, 2016;

264 (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and
265 provide recommendations to the Legislature regarding:

266 (i) pretrial services and the resources needed to reduce recidivism;

267 (ii) county jail and county behavioral health early-assessment resources needed for an
268 offender convicted of a class A or class B misdemeanor; and

269 (iii) the replacement of federal dollars associated with drug interdiction law
270 enforcement task forces that are reduced;

271 (l) (i) establish performance goals and outcome measurements for all treatment
272 programs for which minimum standards are established under Subsection (2)(i), including
273 recidivism data and data regarding cost savings associated with recidivism reduction and the
274 reduction in the number of inmates, that are obtained in collaboration with the Administrative
275 Office of the Courts and the Department of Corrections; [~~and~~]

276 (ii) collect data to track and determine whether the goals and measurements are being
277 attained and make this information available to the public;

278 (iii) collect data that includes:

279 (A) a list of certified behavioral health providers for criminal justice involved

280 individuals by Adult Probation and Parole region and services offered;

281 (B) the number of criminal justice involved individuals served by the division, by
282 behavioral treatment type;

283 (C) the average wait time for behavioral health treatment, by treatment type; and

284 (D) the percentage of criminal justice involved individuals completing or failing
285 division programming, by behavioral treatment type, and completing supervision successfully;

286 and

287 (iv) require all substance abuse authorities and mental health authorities receiving
288 public funds to report data regarding criminal justice involved individuals, to include the
289 federal treatment episode data set;

290 (m) in the division's discretion, use the data to make decisions regarding the use of
291 funds allocated to the division, the Administrative Office of the Courts, and the Department of
292 Corrections to provide treatment for which standards are established under Subsection (2)(i);
293 [~~and~~]

294 (n) annually, on or before August 31, submit the data collected under Subsection (2)(k)
295 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings
296 based on the data and provide the report to the Judiciary Interim Committee, the Health and
297 Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim
298 Committee, and the related appropriations subcommittees; and

299 (o) submit the data collected under Subsections (2)(1)(iii) and (2)(1)(iv) quarterly to the
300 Commission on Criminal and Juvenile Justice.

301 (3) In addition to the responsibilities described in Subsection (2), the division shall,
302 within funds appropriated by the Legislature for this purpose, implement and manage the
303 operation of a firearm safety and suicide prevention program, in consultation with the Bureau
304 of Criminal Identification created in Section 53-10-201, including:

305 (a) coordinating with the Department of Health, local mental health and substance
306 abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a

307 Utah-based nonprofit organization with expertise in the field of firearm use and safety that
308 represents firearm owners, to:

309 (i) produce and periodically review and update a firearm safety brochure and other
310 educational materials with information about the safe handling and use of firearms that
311 includes:

312 (A) information on safe handling, storage, and use of firearms in a home environment;
313 (B) information about at-risk individuals and individuals who are legally prohibited
314 from possessing firearms;

315 (C) information about suicide prevention awareness; and
316 (D) information about the availability of firearm safety packets;

317 (ii) procure cable-style gun locks for distribution pursuant to this section;
318 (iii) produce a firearm safety packet that includes the firearm safety brochure and the
319 cable-style gun lock described in this Subsection (3); and

320 (iv) create a suicide prevention education course that:

321 (A) provides information for distribution regarding firearm safety education;
322 (B) incorporates current information on how to recognize suicidal behaviors and
323 identify individuals who may be suicidal; and

324 (C) provides information regarding crisis intervention resources;

325 (b) distributing, free of charge, the firearm safety packet to the following persons, who
326 shall make the firearm safety packet available free of charge:

327 (i) health care providers, including emergency rooms;
328 (ii) mobile crisis outreach teams;
329 (iii) mental health practitioners;
330 (iv) other public health suicide prevention organizations;
331 (v) entities that teach firearm safety courses;
332 (vi) school districts for use in the seminar, described in Section [53G-9-702](#), for parents
333 of students in the school district; and

334 (vii) firearm dealers to be distributed in accordance with Section [76-10-526](#);

335 (c) creating and administering a redeemable coupon program described in this
336 Subsection (3) and Section [76-10-526](#) that includes:

337 (i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase

338 price of a firearm safe from a participating firearms dealer or a person engaged in the business
339 of selling firearm safes in Utah, by a Utah resident who has filed an application for a concealed
340 firearm permit; and

341 (ii) collecting the receipts described in Section 76-10-526 from the participating
342 dealers and persons and reimbursing the dealers and persons;

343 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
344 making rules that establish procedures for:

345 (i) producing and distributing the suicide prevention education course and the firearm
346 safety brochures and packets;

347 (ii) procuring the cable-style gun locks for distribution; and

348 (iii) administering the redeemable coupon program; and

349 (e) reporting to the Health and Human Services Interim Committee regarding
350 implementation and success of the firearm safety program and suicide prevention education
351 course at or before the November meeting each year.

352 (4) (a) The division may refuse to contract with and may pursue legal remedies against
353 any local substance abuse authority or local mental health authority that fails, or has failed, to
354 expend public funds in accordance with state law, division policy, contract provisions, or
355 directives issued in accordance with state law.

356 (b) The division may withhold funds from a local substance abuse authority or local
357 mental health authority if the authority's contract provider of substance abuse or mental health
358 programs or services fails to comply with state and federal law or policy.

359 (5) (a) Before reissuing or renewing a contract with any local substance abuse authority
360 or local mental health authority, the division shall review and determine whether the local
361 substance abuse authority or local mental health authority is complying with the oversight and
362 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
363 17-43-309.

364 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and
365 liability described in Section 17-43-303 and to the responsibility and liability described in
366 Section 17-43-203.

367 (6) In carrying out the division's duties and responsibilities, the division may not
368 duplicate treatment or educational facilities that exist in other divisions or departments of the

369 state, but shall work in conjunction with those divisions and departments in rendering the
370 treatment or educational services that those divisions and departments are competent and able
371 to provide.

372 (7) The division may accept in the name of and on behalf of the state donations, gifts,
373 devises, or bequests of real or personal property or services to be used as specified by the
374 donor.

375 (8) The division shall annually review with each local substance abuse authority and
376 each local mental health authority the authority's statutory and contract responsibilities
377 regarding:

378 (a) use of public funds;

379 (b) oversight of public funds; and

380 (c) governance of substance use disorder and mental health programs and services.

381 (9) The Legislature may refuse to appropriate funds to the division upon the division's
382 failure to comply with the provisions of this part.

383 (10) If a local substance abuse authority contacts the division under Subsection
384 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant
385 minor, the division shall:

386 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
387 capacity to provide the treatment services; or

388 (b) otherwise ensure that treatment services are made available to the pregnant woman
389 or pregnant minor.

390 (11) The division shall employ a school-based mental health specialist to be housed at
391 the State Board of Education who shall work with the State Board of Education to:

392 (a) provide coordination between a local education agency and local mental health
393 authority;

394 (b) recommend evidence-based and evidence informed mental health screenings and
395 intervention assessments for a local education agency; and

396 (c) coordinate with the local community, including local departments of health, to
397 enhance and expand mental health related resources for a local education agency.

398 Section 3. Section **62A-15-625** is amended to read:

399 **62A-15-625. Voluntary admission of adults.**

400 (1) A local mental health authority, a designee of a local mental health authority, or
401 another mental health facility may admit for observation, diagnosis, care, and treatment an
402 adult who applies for voluntary admission and who has a mental illness or exhibits the
403 symptoms of a mental illness.

404 (2) No adult may be committed to a local mental health authority against that adult's
405 will except as provided in this chapter.

406 (3) An adult may be voluntarily admitted to a local mental health authority for
407 treatment at the Utah State Hospital as a condition of probation or stay of sentence only after
408 the requirements of Subsection ~~77-18-1(13)~~(14) have been met.

409 Section 4. Section **63A-3-502** is amended to read:

410 **63A-3-502. Office of State Debt Collection created -- Duties.**

411 (1) The state and each state agency shall comply with the requirements of this chapter
412 and any rules established by the Office of State Debt Collection.

413 (2) There is created the Office of State Debt Collection in the Division of Finance.

414 (3) The office shall:

415 (a) have overall responsibility for collecting and managing state receivables;

416 (b) assist the Division of Finance to develop consistent policies governing the
417 collection and management of state receivables;

418 (c) oversee and monitor state receivables to ensure that state agencies are:

419 (i) implementing all appropriate collection methods;

420 (ii) following established receivables guidelines; and

421 (iii) accounting for and reporting receivables in the appropriate manner;

422 (d) assist the Division of Finance to develop policies, procedures, and guidelines for
423 accounting, reporting, and collecting money owed to the state;

424 (e) provide information, training, and technical assistance to each state agency on
425 various collection-related topics;

426 (f) write an inclusive receivables management and collection manual for use by each
427 state agency;

428 (g) prepare quarterly and annual reports of the state's receivables;

429 (h) create or coordinate a state accounts receivable database;

430 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an

431 effective accounts receivable program;

432 (j) identify any state agency that is not making satisfactory progress toward
433 implementing collection techniques and improving accounts receivable collections;

434 (k) coordinate information, systems, and procedures between each state agency to
435 maximize the collection of past-due accounts receivable;

436 (l) establish an automated cash receipt process between each state agency;

437 (m) assist the Division of Finance to establish procedures for writing off accounts
438 receivable for accounting and collection purposes;

439 (n) establish standard time limits after which an agency will delegate responsibility to
440 collect state receivables to the office or its designee;

441 (o) be a real party in interest for an account receivable referred to the office by any
442 state agency or for any restitution to victims referred to the office by a court; and

443 (p) allocate money collected for judgments registered under Section 77-18-6 in
444 accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110.

445 (4) The office may:

446 (a) recommend to the Legislature new laws to enhance collection of past-due accounts
447 by state agencies;

448 (b) collect accounts receivables for higher education entities, if the higher education
449 entity agrees;

450 (c) prepare a request for proposal for consulting services to:

451 (i) analyze the state's receivable management and collection efforts; and
452 (ii) identify improvements needed to further enhance the state's effectiveness in
453 collecting its receivables;

454 (d) contract with private or state agencies to collect past-due accounts;

455 (e) perform other appropriate and cost-effective coordinating work directly related to
456 collection of state receivables;

457 (f) obtain access to records and databases of any state agency that are necessary to the
458 duties of the office by following the procedures and requirements of Section 63G-2-206,
459 including the financial disclosure form described in Section 77-38a-204;

460 (g) collect interest and fees related to the collection of receivables under this chapter,
461 and establish, by following the procedures and requirements of Section 63J-1-504:

462 (i) a fee to cover the administrative costs of collection, on accounts administered by the
463 office;

464 (ii) a late penalty fee that may not be more than 10% of the account receivable on
465 accounts administered by the office;

466 (iii) an interest charge that is:

467 (A) the postjudgment interest rate established by Section 15-1-4 in judgments
468 established by the courts; or

469 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
470 receivable for which no court judgment has been entered; and

471 (iv) fees to collect accounts receivable for higher education;

472 (h) collect reasonable attorney fees and reasonable costs of collection that are related to
473 the collection of receivables under this chapter;

474 (i) make rules that allow accounts receivable to be collected over a reasonable period
475 of time and under certain conditions with credit cards;

476 (j) file a satisfaction of judgment in the court by following the procedures and
477 requirements of the Utah Rules of Civil Procedure;

478 (k) ensure that judgments for which the office is the judgment creditor are renewed, as
479 necessary;

480 (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f)
481 with private sector vendors under contract with the state to assist state agencies in collecting
482 debts owed to the state agencies without changing the classification of any private, controlled,
483 or protected record into a public record;

484 (m) enter into written agreements with other governmental agencies to obtain
485 information for the purpose of collecting state accounts receivable and restitution for victims;
486 and

487 (n) collect accounts receivable for a political subdivision of the state, if the political
488 subdivision enters into an agreement or contract with the office under Title 11, Chapter 13,
489 Interlocal Cooperation Act, for the office to collect the political subdivision's accounts
490 receivable.

491 (5) The office shall ensure that:

492 (a) a record obtained by the office or a private sector vendor as referred to in

493 Subsection (4)(l):

494 (i) is used only for the limited purpose of collecting accounts receivable; and

495 (ii) is subject to federal, state, and local agency records restrictions; and

496 (b) any person employed by, or formerly employed by, the office or a private sector

497 vendor as referred to in Subsection (4)(l) is subject to:

498 (i) the same duty of confidentiality with respect to the record imposed by law on

499 officers and employees of the state agency from which the record was obtained; and

500 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a

501 private, controlled, or protected record.

502 (6) (a) The office shall collect accounts receivable ordered by a court as a result of

503 prosecution for a criminal offense that have been transferred to the office under Section

504 [77-32a-102](#). The office shall suspend collection of the accounts and the accrual of interest

505 during a defendant's period of incarceration for the offense, and may not begin or restart

506 collection until 180 days after a defendant is released from incarceration.

507 (b) The office may not assess the interest charge established by the office under

508 Subsection (4) on an account receivable subject to the postjudgment interest rate established by

509 Section [15-1-4](#).

510 (c) A defendant who has been ordered to pay the balance of their account receivable

511 and who is not more than three months delinquent in the payment may, at any time, petition the

512 office to reduce any unpaid portion of that obligation. If it appears to the satisfaction of the

513 office that payment of the amount due will impose manifest hardship on the defendant or the

514 defendant's immediate family, the office may remit or defer all or part of the amount due, or

515 modify the method of payment under Section [77-32a-104](#).

516 (7) The office shall require a state agency to:

517 (a) transfer collection responsibilities to the office or its designee according to time

518 limits established by the office;

519 (b) make annual progress towards implementing collection techniques and improved

520 accounts receivable collections;

521 (c) use the state's accounts receivable system or develop systems that are adequate to

522 properly account for and report their receivables;

523 (d) develop and implement internal policies and procedures that comply with the

524 collections policies and guidelines established by the office;

525 (e) provide internal accounts receivable training to staff involved in the management
526 and collection of receivables as a supplement to statewide training;

527 (f) bill for and make initial collection efforts of its receivables up to the time the
528 accounts must be transferred; and

529 (g) submit quarterly receivable reports to the office that identify the age, collection
530 status, and funding source of each receivable.

531 (8) All interest, fees, and other amounts authorized to be charged by the office under
532 Subsection (4):

533 (a) are penalties that may be charged by the office; and

534 (b) are not compensation for actual pecuniary loss.

535 Section 5. Section **63M-7-404** is amended to read:

536 **63M-7-404. Purpose -- Duties.**

537 (1) The purpose of the commission is to develop guidelines and propose
538 recommendations to the Legislature, the governor, and the Judicial Council regarding:

539 (a) the sentencing and release of juvenile and adult offenders in order to:

540 (i) respond to public comment;

541 (ii) relate sentencing practices and correctional resources;

542 (iii) increase equity in criminal sentencing;

543 (iv) better define responsibility in criminal sentencing; and

544 (v) enhance the discretion of sentencing judges while preserving the role of the Board
545 of Pardons and Parole and the Youth Parole Authority; and

546 (b) the length of supervision of adult offenders on probation or parole in order to:

547 (i) increase equity in criminal supervision lengths;

548 (ii) respond to public comment;

549 (iii) relate the length of supervision to an offender's progress;

550 (iv) take into account an offender's risk of offending again;

551 (v) relate the length of supervision to the amount of time an offender has remained
552 under supervision in the community; and

553 (vi) enhance the discretion of the sentencing judges while preserving the role of the
554 Board of Pardons and Parole.

555 (2) (a) The commission shall modify the sentencing guidelines and supervision length
556 guidelines for adult offenders to implement the recommendations of the Commission on
557 Criminal and Juvenile Justice for reducing recidivism.

558 (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting
559 the public and ensuring efficient use of state funds.

560 (3) (a) The commission shall modify the criminal history score in the sentencing
561 guidelines for adult offenders to implement the recommendations of the Commission on
562 Criminal and Juvenile Justice for reducing recidivism.

563 (b) The modifications to the criminal history score under Subsection (3)(a) shall
564 include factors in an offender's criminal history that are relevant to the accurate determination
565 of an individual's risk of offending again.

566 (4) (a) The commission shall establish sentencing guidelines for periods of
567 incarceration for individuals who are on probation and:

568 (i) who have violated one or more conditions of probation; and

569 (ii) whose probation has been revoked by the court.

570 (b) The guidelines shall consider the seriousness of the violation of the conditions of
571 probation, the probationer's conduct while on probation, and the probationer's criminal history.

572 (5) (a) The commission shall establish sentencing guidelines for periods of
573 incarceration for individuals who are on parole and:

574 (i) who have violated a condition of parole; and

575 (ii) whose parole has been revoked by the Board of Pardons and Parole.

576 (b) The guidelines shall consider the seriousness of the violation of the conditions of
577 parole, the individual's conduct while on parole, and the individual's criminal history.

578 (6) The commission shall establish graduated sanctions to facilitate the prompt and
579 effective response to an individual's violation of the terms of probation or parole by the adult
580 probation and parole section of the Department of Corrections in order to implement the
581 recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism,
582 including:

583 (a) sanctions to be used in response to a violation of the terms of probation or parole;

584 (b) when violations should be reported to the court or the Board of Pardons and Parole;

585 and

586 (c) a range of sanctions that may not exceed a period of incarceration of more than:

587 (i) three consecutive days; and

588 (ii) a total of five days in a period of 30 days.

589 (7) The commission shall establish graduated incentives to facilitate a prompt and
590 effective response by the adult probation and parole section of the Department of Corrections
591 to an offender's:

592 (a) compliance with the terms of probation or parole; and

593 (b) positive conduct that exceeds those terms.

594 (8) (a) The commission shall establish guidelines, including sanctions and incentives,
595 to appropriately respond to negative and positive behavior of juveniles who are:

596 (i) nonjudicially adjusted;

597 (ii) placed on diversion;

598 (iii) placed on probation;

599 (iv) placed on community supervision;

600 (v) placed in an out-of-home placement; or

601 (vi) placed in a secure care facility.

602 (b) In establishing guidelines under this Subsection (8), the commission shall consider:

603 (i) the seriousness of the negative and positive behavior;

604 (ii) the juvenile's conduct post-adjudication; and

605 (iii) the delinquency history of the juvenile.

606 (c) The guidelines shall include:

607 (i) responses that are swift and certain;

608 (ii) a continuum of community-based options for juveniles living at home;

609 (iii) responses that target the individual's criminogenic risk and needs; and

610 (iv) incentives for compliance, including earned discharge credits.

611 (9) The commission shall establish supervision length guidelines in accordance with
612 this section before October 1, 2018.

613 (10) The commission shall develop guidelines for the Board of Pardons and Parole and
614 the judiciary to appropriately respond to technical violations of supervision conditions,
615 including discouraging the imposition of prison sanctions for technical violations and low-level
616 new offenses. The guidelines should ensure that incarceration is used sparingly and only when

617 an offender poses a substantial threat to public safety that cannot be addressed through the
618 graduated sanctions established in Subsection (6).

619 Section 6. Section **64-13-21** is amended to read:

620 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**
621 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**
622 **fee.**

623 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced
624 offenders placed in the community on probation by the courts, on parole by the Board of
625 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate
626 Compact for the Supervision of Parolees and Probationers.

627 (b) The department shall establish standards for the supervision of offenders in
628 accordance with sentencing guidelines and supervision length guidelines, including the
629 graduated sanctions matrix, established by the Utah Sentencing Commission, giving priority,
630 based on available resources, to felony offenders and offenders sentenced pursuant to
631 Subsection [58-37-8\(2\)\(b\)\(ii\)](#).

632 (2) The department shall apply graduated sanctions established by the Utah Sentencing
633 Commission to facilitate a prompt and appropriate response to an individual's violation of the
634 terms of probation or parole, including:

635 (a) sanctions to be used in response to a violation of the terms of probation or parole;
636 and

637 (b) requesting approval from the court or Board of Pardons and Parole to impose a
638 sanction for an individual's violation of the terms of probation or parole, for a period of
639 incarceration of not more than three consecutive days and not more than a total of five days
640 within a period of 30 days.

641 (3) The department shall implement a program of graduated incentives as established
642 by the Utah Sentencing Commission to facilitate the department's prompt and appropriate
643 response to an offender's:

644 (a) compliance with the terms of probation or parole; or

645 (b) positive conduct that exceeds those terms.

646 (4) (a) The department shall, in collaboration with the Commission on Criminal and
647 Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and

648 procedures for the collection of information, including cost savings related to recidivism
649 reduction and the reduction in the number of inmates, related to the use of the graduated
650 sanctions and incentives, and offenders' outcomes.

651 (b) The collected information shall be provided to the Commission on Criminal and
652 Juvenile Justice not less frequently than annually on or before August 31.

653 (5) Employees of the department who are POST certified as law enforcement officers
654 or correctional officers and who are designated as parole and probation officers by the
655 executive director have the following duties:

656 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
657 with the conditions of the parole or probation agreement;

658 (b) investigating or apprehending any offender who has escaped from the custody of
659 the department or absconded from supervision;

660 (c) supervising any offender during transportation; or

661 (d) collecting DNA specimens when the specimens are required under Section
662 [53-10-404](#).

663 (6) (a) A monthly supervision fee of \$30 shall be collected from each offender on
664 probation or parole. The fee may be suspended or waived by the department upon a showing
665 by the offender that imposition would create a substantial hardship or if the offender owes
666 restitution to a victim.

667 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
668 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the
669 supervision fee and the circumstances under which an offender may request a hearing.

670 (ii) In determining whether the imposition of the supervision fee would constitute a
671 substantial hardship, the department shall consider the financial resources of the offender and
672 the burden that the fee would impose, with regard to the offender's other obligations.

673 (7) (a) For offenders placed on probation under Section [77-18-1](#) or parole under
674 Subsection [76-3-202\(2\)\(a\)](#) on or after October 1, 2015, but before January 1, 2019, the
675 department shall establish a program allowing an offender to earn credits for the offender's
676 compliance with the terms of the offender's probation or parole, which shall be applied to
677 reducing the period of probation or parole as provided in this Subsection (7).

678 (b) The program shall provide that an offender earns a reduction credit of 30 days from

679 the offender's period of probation or parole for each month the offender completes without any
680 violation of the terms of the offender's probation or parole agreement, including the case action
681 plan.

682 (c) The department shall maintain a record of credits earned by an offender under this
683 Subsection (7) and shall request from the court or the Board of Pardons and Parole the
684 termination of probation or parole not fewer than 30 days prior to the termination date that
685 reflects the credits earned under this Subsection (7).

686 (d) This Subsection (7) does not prohibit the department from requesting a termination
687 date earlier than the termination date established by earned credits under Subsection (7)(c).

688 (e) The court or the Board of Pardons and Parole shall terminate an offender's
689 probation or parole upon completion of the period of probation or parole accrued by time
690 served and credits earned under this Subsection (7) unless the court or the Board of Pardons
691 and Parole finds that termination would interrupt the completion of a necessary treatment
692 program, in which case the termination of probation or parole shall occur when the treatment
693 program is completed.

694 (f) The department shall report annually to the Commission on Criminal and Juvenile
695 Justice on or before August 31:

696 (i) the number of offenders who have earned probation or parole credits under this
697 Subsection (7) in one or more months of the preceding fiscal year and the percentage of the
698 offenders on probation or parole during that time that this number represents;

699 (ii) the average number of credits earned by those offenders who earned credits;

700 (iii) the number of offenders who earned credits by county of residence while on
701 probation or parole;

702 (iv) the cost savings associated with sentencing reform programs and practices; and

703 (v) a description of how the savings will be invested in treatment and
704 early-intervention programs and practices at the county and state levels.

705 (g) The department shall report quarterly to the Commission on Criminal and Juvenile
706 Justice:

707 (i) incentives and sanctions used for each person on supervision;

708 (ii) technical violations leading to a revocation, by judicial district; and

709 (iii) the number of supervision terminations requested and the proportion of those

710 requests that were granted, by judicial district.

711 Section 7. Section **76-3-202** is amended to read:

712 **76-3-202. Paroled individuals -- Termination or discharge from sentence -- Time**
713 **served on parole -- Discretion of Board of Pardons and Parole.**

714 (1) Every individual committed to the state prison to serve an indeterminate term and,
715 after December 31, 2018, released on parole shall complete a term of parole that extends
716 through the expiration of the individual's maximum sentence unless the parole is earlier
717 terminated by the Board of Pardons and Parole in accordance with the supervision length
718 guidelines established by the Utah Sentencing Commission under Section [63M-7-404](#), as
719 described in Subsection [77-27-5\(7\)](#), to the extent the guidelines are consistent with the
720 requirements of the law.

721 (2) (a) Except as provided in Subsection (2)(b), every individual committed to the state
722 prison to serve an indeterminate term and released on parole on or after October 1, 2015, but
723 before January 1, 2019, shall, upon completion of three years on parole outside of confinement
724 and without violation, be terminated from the individual's sentence unless the parole is earlier
725 terminated by the Board of Pardons and Parole or is terminated pursuant to Section [64-13-21](#).

726 (b) Every individual committed to the state prison to serve an indeterminate term and
727 later released on parole on or after July 1, 2008, but before January 1, 2019, and who was
728 convicted of any felony offense under Title 76, Chapter 5, Offenses Against the Person, or any
729 attempt, conspiracy, or solicitation to commit any of these felony offenses, shall complete a
730 term of parole that extends through the expiration of the individual's maximum sentence,
731 unless the parole is earlier terminated by the Board of Pardons and Parole.

732 (3) Every individual convicted of a second degree felony for violating Section
733 [76-5-404](#), forcible sexual abuse, or [76-5-404.1](#), sexual abuse of a child and aggravated sexual
734 abuse of a child, or attempting, conspiring, or soliciting the commission of a violation of any of
735 those sections, and who is paroled before July 1, 2008, shall, upon completion of 10 years
736 parole outside of confinement and without violation, be terminated from the sentence unless
737 the individual is earlier terminated by the Board of Pardons and Parole.

738 (4) An individual who violates the terms of parole, while serving parole, for any
739 offense under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and
740 Parole be recommitted to prison to serve the portion of the balance of the term as determined

741 by the Board of Pardons and Parole, but not to exceed the maximum term.

742 (5) An individual paroled following a former parole revocation may not be discharged
743 from the individual's sentence until:

744 (a) the individual has served the applicable period of parole under this section outside
745 of confinement;

746 (b) the individual's maximum sentence has expired; or

747 (c) the Board of Pardons and Parole orders the individual to be discharged from the
748 sentence.

749 (6) (a) All time served on parole, outside of confinement and without violation,
750 constitutes service toward the total sentence.

751 (b) Any time an individual spends outside of confinement after commission of a parole
752 violation does not constitute service toward the total sentence unless the individual is
753 exonerated at a parole revocation hearing.

754 (c) (i) Any time an individual spends in confinement awaiting a hearing before the
755 Board of Pardons and Parole or a decision by the board concerning revocation of parole
756 constitutes service toward the total sentence.

757 (ii) In the case of exonerated by the board, the time spent is included in computing the
758 total parole term.

759 (7) When a parolee causes the parolee's absence from the state without authority from
760 the Board of Pardons and Parole or avoids or evades parole supervision, the period of absence,
761 avoidance, or evasion tolls the parole period.

762 (8) (a) While on parole, time spent in confinement outside the state may not be credited
763 toward the service of any Utah sentence.

764 (b) Time in confinement outside the state or in the custody of any tribal authority or the
765 United States government for a conviction obtained in another jurisdiction tolls the expiration
766 of the Utah sentence.

767 (9) This section does not preclude the Board of Pardons and Parole from paroling or
768 discharging an inmate at any time within the discretion of the Board of Pardons and Parole
769 unless otherwise specifically provided by law.

770 (10) At the successful termination of parole, or after 12 timely payments, the Board of
771 Pardons and Parole may waive the remaining balance of a defendant's criminal judgment

772 account receivable, with the exception of restitution.

773 [~~10~~] (11) A parolee sentenced to lifetime parole may petition the Board of Pardons
774 and Parole for termination of lifetime parole.

775 Section 8. Section 77-18-1 is amended to read:

776 **77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation --**
777 **Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and**
778 **conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic**
779 **monitoring.**

780 (1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea
781 in abeyance agreement, the court may hold the plea in abeyance as provided in Chapter 2a,
782 Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

783 (2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any
784 crime or offense, the court may, after imposing sentence, suspend the execution of the sentence
785 and place the defendant:

786 (i) on probation under the supervision of the Department of Corrections except in cases
787 of class C misdemeanors or infractions;

788 (ii) on probation under the supervision of an agency of local government or with a
789 private organization; or

790 (iii) on court probation under the jurisdiction of the sentencing court.

791 (b) (i) The legal custody of all probationers under the supervision of the department is
792 with the department.

793 (ii) The legal custody of all probationers under the jurisdiction of the sentencing court
794 is vested as ordered by the court.

795 (iii) The court has continuing jurisdiction over all probationers.

796 (iv) Court probation may include an administrative level of services, including
797 notification to the court of scheduled periodic reviews of the probationer's compliance with
798 conditions.

799 (c) Supervised probation services provided by the department, an agency of local
800 government, or a private organization shall specifically address the offender's risk of
801 reoffending as identified by a validated risk and needs screening or assessment.

802 (3) (a) The department shall establish supervision and presentence investigation

803 standards for all individuals referred to the department based on:

- 804 (i) the type of offense;
 - 805 (ii) the results of a risk and needs assessment;
 - 806 (iii) the demand for services;
 - 807 (iv) the availability of agency resources;
 - 808 (v) public safety; and
 - 809 (vi) other criteria established by the department to determine what level of services
- 810 shall be provided.

811 (b) Proposed supervision and investigation standards shall be submitted to the Judicial
812 Council and the Board of Pardons and Parole on an annual basis for review and comment prior
813 to adoption by the department.

814 (c) The Judicial Council and the department shall establish procedures to implement
815 the supervision and investigation standards.

816 (d) The Judicial Council and the department shall annually consider modifications to
817 the standards based upon criteria in Subsection (3)(a) and other criteria as they consider
818 appropriate.

819 (e) The Judicial Council and the department shall annually prepare an impact report
820 and submit it to the appropriate legislative appropriations subcommittee.

821 (4) Notwithstanding other provisions of law, the department is not required to
822 supervise the probation of an individual convicted of a class B or C misdemeanor or an
823 infraction or to conduct presentence investigation reports on a class C misdemeanor or
824 infraction. However, the department may supervise the probation of a class B misdemeanant in
825 accordance with department standards.

826 (5) (a) Before the imposition of any sentence, the court may, with the concurrence of
827 the defendant, continue the date for the imposition of sentence for a reasonable period of time
828 for the purpose of obtaining a presentence investigation report from the department or
829 information from other sources about the defendant.

830 (b) The presentence investigation report shall include:

- 831 (i) a victim impact statement according to guidelines set in Section [77-38a-203](#)
832 describing the effect of the crime on the victim and the victim's family;
- 833 (ii) a specific statement of pecuniary damages, accompanied by a recommendation

834 from the department regarding the payment of restitution with interest by the defendant in
835 accordance with Chapter 38a, Crime Victims Restitution Act;

836 (iii) findings from any screening and any assessment of the offender conducted under
837 Section [77-18-1.1](#);

838 (iv) recommendations for treatment of the offender; and

839 (v) the number of days since the commission of the offense that the offender has spent
840 in the custody of the jail and the number of days, if any, the offender was released to a
841 supervised release or alternative incarceration program under Section [17-22-5.5](#).

842 (c) The contents of the presentence investigation report are protected and are not
843 available except by court order for purposes of sentencing as provided by rule of the Judicial
844 Council or for use by the department.

845 (6) (a) The department shall provide the presentence investigation report to the
846 defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the
847 court for review, three working days prior to sentencing. Any alleged inaccuracies in the
848 presentence investigation report, which have not been resolved by the parties and the
849 department prior to sentencing, shall be brought to the attention of the sentencing judge, and
850 the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the
851 report with the department. If after 10 working days the inaccuracies cannot be resolved, the
852 court shall make a determination of relevance and accuracy on the record.

853 (b) If a party fails to challenge the accuracy of the presentence investigation report at
854 the time of sentencing, that matter shall be considered to be waived.

855 (7) At the time of sentence, the court shall receive any testimony, evidence, or
856 information the defendant or the prosecuting attorney desires to present concerning the
857 appropriate sentence. This testimony, evidence, or information shall be presented in open court
858 on record and in the presence of the defendant.

859 (8) While on probation, and as a condition of probation, the court may require that a
860 defendant perform any or all of the following:

861 (a) provide for the support of others for whose support the defendant is legally liable;

862 (b) participate in available treatment programs, including any treatment program in
863 which the defendant is currently participating, if the program is acceptable to the court;

864 (c) if on probation for a felony offense, serve a period of time, not to exceed one year,

865 in a county jail designated by the department, after considering any recommendation by the
866 court as to which jail the court finds most appropriate;

867 (d) serve a term of home confinement, which may include the use of electronic
868 monitoring;

869 (e) participate in compensatory service restitution programs, including the
870 compensatory service program provided in Section [76-6-107.1](#);

871 (f) pay for the costs of investigation, probation, and treatment services;

872 (g) make restitution or reparation to the victim or victims with interest in accordance
873 with Chapter 38a, Crime Victims Restitution Act; and

874 (h) comply with other terms and conditions the court considers appropriate to ensure
875 public safety or increase a defendant's likelihood of success on probation.

876 (9) The department shall collect and disburse the accounts receivable as defined by
877 Section [77-32a-101](#), with interest and any other costs assessed under Section [64-13-21](#) during:

878 (a) the parole period and any extension of that period in accordance with ~~Subsection~~
879 Section [77-27-6](#)~~(4)~~; and

880 (b) the probation period in cases for which the court orders supervised probation and
881 any extension of that period by the department in accordance with Subsection ~~[(10)]~~ (11).

882 (10) The court may, at any point during the course of probation and after 12 timely
883 payments, waive the remainder of the accounts receivable as defined in Section [77-32a-101](#),
884 with the exception of restitution, along with interest and any costs assessed under Section
885 [64-13-21](#).

886 ~~[(10)]~~ (11) (a) (i) Except as provided in Subsection ~~[(10)]~~ (11)(a)(ii), probation of an
887 individual placed on probation after December 31, 2018:

888 (A) may not exceed the individual's maximum sentence;

889 (B) shall be for a period of time that is in accordance with the supervision length
890 guidelines established by the Utah Sentencing Commission under Section [63M-7-404](#), to the
891 extent the guidelines are consistent with the requirements of the law; and

892 (C) shall be terminated in accordance with the supervision length guidelines
893 established by the Utah Sentencing Commission under Section [63M-7-404](#), to the extent the
894 guidelines are consistent with the requirements of the law.

895 (ii) Probation of an individual placed on probation after December 31, 2018, whose

896 maximum sentence is one year or less may not exceed 36 months.

897 (iii) Probation of an individual placed on probation on or after October 1, 2015, but
898 before January 1, 2019, may be terminated at any time at the discretion of the court or upon
899 completion without violation of 36 months probation in felony or class A misdemeanor cases,
900 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to
901 Section [64-13-21](#) regarding earned credits.

902 (b) (i) If, upon expiration or termination of the probation period under Subsection
903 ~~[(10)]~~ [\(11\)](#)(a), there remains an unpaid balance upon the accounts receivable as defined in
904 Section [77-32a-101](#), the court may retain jurisdiction of the case and continue the defendant on
905 bench probation for the limited purpose of enforcing the payment of the account receivable, or
906 may waive the remainder of the unpaid balance, with the exception of restitution. If the court
907 does not waive the remainder and retains jurisdiction for ~~[this limited]~~ the purpose of enforcing
908 payment, the court may order the defendant to pay to the court the costs associated with
909 continued probation under this Subsection ~~[(10)]~~ [\(11\)](#).

910 (ii) In accordance with Section [77-18-6](#), the court shall record in the registry of civil
911 judgments any unpaid balance not waived by the court and not already recorded and
912 immediately transfer responsibility to collect the account to the Office of State Debt Collection.

913 (iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its
914 own motion, the court may require the defendant to show cause why the defendant's failure to
915 pay should not be treated as contempt of court.

916 (c) (i) The department shall notify the court, the Office of State Debt Collection, and
917 the prosecuting attorney in writing in advance in all cases when termination of supervised
918 probation is being requested by the department or will occur by law.

919 (ii) The notification shall include a probation progress report and complete report of
920 details on outstanding accounts receivable.

921 ~~[(11)]~~ [\(12\)](#) (a) (i) Any time served by a probationer outside of confinement after having
922 been charged with a probation violation and prior to a hearing to revoke probation does not
923 constitute service of time toward the total probation term unless the probationer is exonerated
924 at a hearing to revoke the probation.

925 (ii) Any time served in confinement awaiting a hearing or decision concerning
926 revocation of probation does not constitute service of time toward the total probation term

927 unless the probationer is exonerated at the hearing.

928 (iii) Any time served in confinement awaiting a hearing or decision concerning
929 revocation of probation constitutes service of time toward a term of incarceration imposed as a
930 result of the revocation of probation or a graduated sanction imposed under Section
931 [63M-7-404](#).

932 (b) The running of the probation period is tolled upon the filing of a violation report
933 with the court alleging a violation of the terms and conditions of probation or upon the issuance
934 of an order to show cause or warrant by the court.

935 ~~[(12)]~~ (13) (a) (i) Probation may be modified as is consistent with the supervision
936 length guidelines and the graduated sanctions and incentives developed by the Utah Sentencing
937 Commission under Section [63M-7-404](#).

938 (ii) The length of probation may not be extended, except upon waiver of a hearing by
939 the probationer or upon a hearing and a finding in court that the probationer has violated the
940 conditions of probation.

941 (iii) Probation may not be revoked except upon a hearing in court and a finding that the
942 conditions of probation have been violated.

943 (b) (i) Upon the filing of an affidavit, or an unsworn written declaration executed in
944 substantial compliance with ~~[Section [78B-5-705](#)]~~ Title 78B, Chapter 18a, Uniform Unsworn
945 Declarations Act, alleging with particularity facts asserted to constitute violation of the
946 conditions of probation, the court shall determine if the affidavit or unsworn written declaration
947 establishes probable cause to believe that revocation, modification, or extension of probation is
948 justified.

949 (ii) If the court determines there is probable cause, it shall cause to be served on the
950 defendant a warrant for the defendant's arrest or a copy of the affidavit or unsworn written
951 declaration and an order to show cause why the defendant's probation should not be revoked,
952 modified, or extended.

953 (c) (i) The order to show cause shall specify a time and place for the hearing and shall
954 be served upon the defendant at least five days prior to the hearing.

955 (ii) The defendant shall show good cause for a continuance.

956 (iii) The order to show cause shall inform the defendant of a right to be represented by
957 counsel at the hearing and to have counsel appointed if the defendant is indigent.

958 (iv) The order shall also inform the defendant of a right to present evidence.
959 (d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit
960 or unsworn written declaration.
961 (ii) If the defendant denies the allegations of the affidavit or unsworn written
962 declaration, the prosecuting attorney shall present evidence on the allegations.
963 (iii) The persons who have given adverse information on which the allegations are
964 based shall be presented as witnesses subject to questioning by the defendant unless the court
965 for good cause otherwise orders.
966 (iv) The defendant may call witnesses, appear and speak in the defendant's own behalf,
967 and present evidence.
968 (e) (i) After the hearing the court shall make findings of fact.
969 (ii) Upon a finding that the defendant violated the conditions of probation, the court
970 may order the probation revoked, modified, continued, or reinstated for all or a portion of the
971 original term of probation.
972 (iii) (A) Except as provided in Subsection [~~(10)~~] (11)(a)(ii), the court may not require a
973 defendant to remain on probation for a period of time that exceeds the length of the defendant's
974 maximum sentence.
975 (B) Except as provided in Subsection [~~(10)~~] (11)(a)(ii), if a defendant's probation is
976 revoked and later reinstated, the total time of all periods of probation the defendant serves,
977 relating to the same sentence, may not exceed the defendant's maximum sentence.
978 (iv) If a period of incarceration is imposed for a violation, the defendant shall be
979 sentenced within the guidelines established by the Utah Sentencing Commission pursuant to
980 Subsection [63M-7-404](#)(4), unless the judge determines that:
981 (A) the defendant needs substance abuse or mental health treatment, as determined by a
982 validated risk and needs screening and assessment, that warrants treatment services that are
983 immediately available in the community; or
984 (B) the sentence previously imposed shall be executed.
985 (v) If the defendant had, prior to the imposition of a term of incarceration or the
986 execution of the previously imposed sentence under this Subsection [~~(12)~~] (13), served time in
987 jail as a condition of probation or due to a violation of probation under Subsection [~~(12)~~]
988 (13)(e)(iv), the time the probationer served in jail constitutes service of time toward the

989 sentence previously imposed.

990 ~~[(13)]~~ (14) The court may order the defendant to commit the defendant to the custody
991 of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital
992 as a condition of probation or stay of sentence, only after the superintendent of the Utah State
993 Hospital or the superintendent's designee has certified to the court that:

994 (a) the defendant is appropriate for and can benefit from treatment at the state hospital;

995 (b) treatment space at the hospital is available for the defendant; and

996 (c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for

997 treatment over the defendants described in this Subsection ~~[(13)]~~ (14).

998 ~~[(14)]~~ (15) Presentence investigation reports are classified protected in accordance with
999 Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding
1000 Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure
1001 of a presentence investigation report. Except for disclosure at the time of sentencing pursuant
1002 to this section, the department may disclose the presentence investigation only when:

1003 (a) ordered by the court pursuant to Subsection 63G-2-202(7);

1004 (b) requested by a law enforcement agency or other agency approved by the department
1005 for purposes of supervision, confinement, and treatment of the offender;

1006 (c) requested by the Board of Pardons and Parole;

1007 (d) requested by the subject of the presentence investigation report or the subject's
1008 authorized representative;

1009 (e) requested by the victim of the crime discussed in the presentence investigation
1010 report or the victim's authorized representative, provided that the disclosure to the victim shall
1011 include only information relating to statements or materials provided by the victim, to the
1012 circumstances of the crime including statements by the defendant, or to the impact of the crime
1013 on the victim or the victim's household; or

1014 (f) requested by a sex offender treatment provider who is certified to provide treatment
1015 under the program established in Subsection 64-13-25(3) and who, at the time of the request:

1016 (i) is providing sex offender treatment to the offender who is the subject of the
1017 presentence investigation report; and

1018 (ii) provides written assurance to the department that the report:

1019 (A) is necessary for the treatment of the offender;

1020 (B) will be used solely for the treatment of the offender; and

1021 (C) will not be disclosed to an individual or entity other than the offender.

1022 [~~15~~] (16) (a) The court shall consider home confinement as a condition of probation
1023 under the supervision of the department, except as provided in Sections 76-3-406 and
1024 76-5-406.5.

1025 (b) The department shall establish procedures and standards for home confinement,
1026 including electronic monitoring, for all individuals referred to the department in accordance
1027 with Subsection [~~16~~] (17).

1028 [~~16~~] (17) (a) If the court places the defendant on probation under this section, it may
1029 order the defendant to participate in home confinement through the use of electronic
1030 monitoring as described in this section until further order of the court.

1031 (b) The electronic monitoring shall alert the department and the appropriate law
1032 enforcement unit of the defendant's whereabouts.

1033 (c) The electronic monitoring device shall be used under conditions which require:

1034 (i) the defendant to wear an electronic monitoring device at all times; and

1035 (ii) that a device be placed in the home of the defendant, so that the defendant's
1036 compliance with the court's order may be monitored.

1037 (d) If a court orders a defendant to participate in home confinement through electronic
1038 monitoring as a condition of probation under this section, it shall:

1039 (i) place the defendant on probation under the supervision of the Department of
1040 Corrections;

1041 (ii) order the department to place an electronic monitoring device on the defendant and
1042 install electronic monitoring equipment in the residence of the defendant; and

1043 (iii) order the defendant to pay the costs associated with home confinement to the
1044 department or the program provider.

1045 (e) The department shall pay the costs of home confinement through electronic
1046 monitoring only for an individual who is determined to be indigent by the court.

1047 (f) The department may provide the electronic monitoring described in this section
1048 either directly or by contract with a private provider.

1049 Section 9. Section 77-27-5 is amended to read:

1050 **77-27-5. Board of Pardons and Parole authority.**

1051 (1) (a) The Board of Pardons and Parole shall determine by majority decision when and
1052 under what conditions any convictions, except for treason or impeachment, may be pardoned or
1053 commuted, subject to this chapter and other laws of the state.

1054 (b) The Board of Pardons and Parole shall determine by majority decision when and
1055 under what conditions, subject to this chapter and other laws of the state, individuals
1056 committed to serve sentences at penal or correctional facilities that are under the jurisdiction of
1057 the Department of Corrections, except treason or impeachment convictions or as otherwise
1058 limited by law, may be released upon parole, ordered to pay restitution, or have their fines,
1059 forfeitures, or restitution remitted, or their sentences terminated.

1060 (c) The board may sit together or in panels to conduct hearings. The chair shall appoint
1061 members to the panels in any combination and in accordance with rules made in accordance
1062 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board. The chair may
1063 participate on any panel and when doing so is chair of the panel. The chair of the board may
1064 designate the chair for any other panel.

1065 (d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole,
1066 pardon, or commutation granted or sentence terminated, except after a full hearing before the
1067 board or the board's appointed examiner in open session. Any action taken under this
1068 subsection other than by a majority of the board shall be affirmed by a majority of the board.

1069 (e) A commutation or pardon may be granted only after a full hearing before the board.

1070 (f) The board may determine restitution as provided in Section 77-27-6 and Subsection
1071 77-38a-302(5)(d)(iii)(A).

1072 (2) (a) In the case of any hearings, timely prior notice of the time and location of the
1073 hearing shall be given to the offender.

1074 (b) The county or district attorney's office responsible for prosecution of the case, the
1075 sentencing court, and law enforcement officials responsible for the defendant's arrest and
1076 conviction shall be notified of any board hearings through the board's website.

1077 (c) Whenever possible, the victim or the victim's representative, if designated, shall be
1078 notified of original hearings and any hearing after that if notification is requested and current
1079 contact information has been provided to the board.

1080 (d) Notice to the victim or the victim's representative shall include information
1081 provided in Section 77-27-9.5, and any related rules made by the board under that section. This

1082 information shall be provided in terms that are reasonable for the lay person to understand.

1083 (3) Decisions of the board in cases involving paroles, pardons, commutations or
1084 terminations of sentence, restitution, or remission of fines or forfeitures are final and are not
1085 subject to judicial review. Nothing in this section prevents the obtaining or enforcement of a
1086 civil judgment, including restitution as provided in Section 77-27-6.

1087 (4) This chapter may not be construed as a denial of or limitation of the governor's
1088 power to grant respite or reprieves in all cases of convictions for offenses against the state,
1089 except treason or conviction on impeachment. However, respites or reprieves may not extend
1090 beyond the next session of the Board of Pardons and Parole and the board, at that session, shall
1091 continue or terminate the respite or reprieve, or it may commute the punishment, or pardon the
1092 offense as provided. In the case of conviction for treason, the governor may suspend execution
1093 of the sentence until the case is reported to the Legislature at its next session. The Legislature
1094 shall then either pardon or commute the sentence, or direct its execution.

1095 (5) (a) In determining when, where, and under what conditions an offender serving a
1096 sentence may be paroled, pardoned, have restitution ordered, or have the offender's fines or
1097 forfeitures remitted, or the offender's sentence commuted or terminated, the board shall:

1098 [~~(a)~~] (i) consider whether the offender has made or is prepared to make restitution as
1099 ascertained in accordance with the standards and procedures of Section 77-38a-302, as a
1100 condition of any parole, pardon, remission of fines or forfeitures, or commutation or
1101 termination of sentence; and

1102 [~~(b)~~] (ii) develop and use a list of criteria for making determinations under this
1103 Subsection (5).

1104 (b) At the successful termination of parole, or after 12 timely payments, the board may
1105 waive the remaining balance of a defendant's criminal judgment account receivable, with the
1106 exception of restitution.

1107 (6) In determining whether parole may be terminated, the board shall consider:

1108 (a) the offense committed by the parolee; and

1109 (b) the parole period as provided in Section 76-3-202, and in accordance with Section
1110 [~~77-27-13~~] 77-27-12.

1111 (7) For offenders placed on parole after December 31, 2018, the board shall terminate
1112 parole in accordance with the supervision length guidelines established by the Utah Sentencing

1113 Commission under Section [63M-7-404](#), to the extent the guidelines are consistent with the
1114 requirements of the law.

1115 Section 10. Section **77-32a-102** is amended to read:

1116 **77-32a-102. Creation of criminal judgment account receivable.**

1117 (1) At the time of sentencing or acceptance of a plea in abeyance, the court shall
1118 establish the criminal accounts receivable, as determined in this chapter including all amounts
1119 then owing, including, as applicable, fines, fees, surcharges, costs, restitution, and interest.

1120 Collection on the account shall be suspended during the period of incarceration for the offense
1121 and during the first 180 days after a defendant's release from incarceration.

1122 (2) (a) Notwithstanding any provision of law to the contrary, if a defendant has been
1123 found indigent in accordance with Section [78B-22-202](#), prior to ordering the imposition or
1124 enforcement of the criminal accounts receivable as described in Subsection (1), the court shall
1125 determine whether payment in full of the aggregate amount of all the financial obligations
1126 within the accounts receivable to be imposed upon the defendant would cause manifest
1127 hardship to the defendant or the defendant's immediate family.

1128 (b) In determining the monetary sum of the financial obligations, the court shall
1129 consider:

1130 (i) the financial resources of the defendant, as disclosed in the financial declaration
1131 described in Section [77-38a-204](#);

1132 (ii) the burden that payment of the financial obligations will impose, with regard to the
1133 other costs assessed against the defendant for any other legal obligation; and

1134 (iii) the ability of the defendant to pay the financial obligations on an installment basis.

1135 (c) If the court determines that payment in full of the aggregate amount of the financial
1136 obligations imposed upon the defendant would cause manifest hardship to the defendant or the
1137 defendant's immediate family, the court shall order a payment plan that requires the defendant
1138 to make a monthly payment to fulfill the financial obligations. The court shall determine
1139 reasonable monthly payment amounts based on the defendant's circumstances.

1140 [~~2~~] (3) After creating the account receivable, the court:

1141 (a) shall, when a prison sentence is imposed and not suspended, accept any payment on
1142 the criminal judgment account receivable tendered on the date of sentencing, enter any
1143 remaining unpaid criminal judgment account receivable as a civil judgment and transfer the

1144 responsibility for collecting the judgment to the Office of State Debt Collection;

1145 (b) may, in other cases, permit a defendant to pay the criminal judgment account
1146 receivable by a date certain or in installments; or

1147 (c) may, in other cases where the court finds that collection of the account by the court
1148 would not be feasible, enter any unpaid criminal judgment account receivable as a civil
1149 judgment and transfer the responsibility for collecting the judgement to the Office of State Debt
1150 Collection.

1151 ~~[(3)]~~ (4) A court allowing installment payments does not limit the ability of a judgment
1152 creditor to pursue collection by any means allowable by law.

1153 ~~[(4)]~~ (5) If the court makes restitution or another financial decision at a time after
1154 sentencing that increases the total amount owed in a case, the criminal accounts receivable
1155 balance shall be adjusted to include the new amounts determined by the court.

1156 ~~[(5)]~~ (6) The court may modify the amount and number of any installment payments, as
1157 justice requires, at any time before the time for default as outlined in Subsection
1158 77-32a-103(2). A defendant who has been ordered to pay the balance of an account receivable
1159 and who is not more than three months delinquent in payments may, at any time, petition the
1160 sentencing court to reduce any unpaid portion of the account. If it appears to the satisfaction of
1161 the court that payment of the amount due will impose manifest hardship on the defendant or the
1162 defendant's immediate family, the court may remit or defer all or part of the amount, or modify
1163 the method of payment under Section 77-32a-104.

1164 ~~[(6)]~~ (7) In the district court, delinquent accounts may incur postjudgment interest.
1165 Section 11. Section **77-32a-105** is amended to read:

1166 **77-32a-105. Accounts with balances at termination of probation.**

1167 (1) When a defendant successfully terminates probation and has a nondelinquent
1168 criminal judgment account receivable with an outstanding balance, the court ~~[shall]~~ may waive
1169 the remainder of the balance, with the exception of restitution, or retain the account and allow
1170 the defendant to continue paying off the account.

1171 (2) Should any balance become delinquent or in default, the court shall take
1172 appropriate action pursuant to Section 77-32a-103 or 77-32a-104.

1173 Section 12. Section **77-38a-501** is amended to read:

1174 **77-38a-501. Default and sanctions.**

1175 (1) When a defendant defaults in the payment of a judgment for restitution or any
1176 installment ordered, the court, on motion of the prosecutor, parole or probation agent, victim,
1177 or on its own motion may:

- 1178 (a) impose sanctions against the defendant as provided in Section 77-32a-104; or
- 1179 (b) if the payment of restitution to a victim was a term of probation, begin probation
1180 violation proceedings as provided in Subsection 77-18-1~~(12)~~(13).

1181 (2) The court may not impose a sanction against the defendant under Subsection (1) if:

- 1182 (a) the defendant's sole default in the payment of a judgement for restitution is the
1183 failure to pay restitution ordered under Subsection 76-3-201(6) regarding costs of incarceration
1184 in a county correctional facility; and
- 1185 (b) the sanction would extend the defendant's term of probation or parole.