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**CRIMINAL JUSTICE MODIFICATIONS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to sentencing, probation, parole, and court-ordered restitution, fines, fees, and other costs.

**Highlighted Provisions:**

This bill:

- ▶ defines and modifies terms;
- ▶ modifies the duties of the Office of State Debt Collection in relation to processing and collecting payments in criminal cases;
- ▶ prohibits the Office of State Debt Collection from assessing interest on certain accounts receivables;
- ▶ amends provisions on interest, fees, and other amounts charged by the Office of State Debt Collection;
- ▶ authorizes the Office of State Debt Collection to make certain rules regarding a payment for a civil judgment of restitution;
- ▶ amends provisions regarding the State Debt Collection Fund;
- ▶ provides that an administrative garnishment order for a civil accounts receivable or a civil judgment of restitution is a continuation of a criminal action;
- ▶ amends provisions regarding a restitution request from the Office for Victims of Crime;
- ▶ repeals a provision requiring the Department of Corrections to collect a criminal



- 28 accounts receivable;
- 29       ▶ amends provisions regarding accounts for offenders who are in the custody of the
- 30 Department of Corrections;
- 31       ▶ allows the Department of Corrections to establish a fine for a violation of
- 32 department rules and to require the offender to pay the fine;
- 33       ▶ amends the exceptions to a spendthrift provision of a trust to allow the Office of
- 34 State Debt Collection to obtain a court order for a distribution;
- 35       ▶ amends the orders that a court imposes at sentencing;
- 36       ▶ requires the court to order restitution, and to collect, receive, process, and distribute
- 37 payments for restitution, for a diversion agreement and a plea in abeyance
- 38 agreement;
- 39       ▶ requires a court to order restitution if a defendant does not successfully complete a
- 40 plea in abeyance agreement;
- 41       ▶ reorganizes and renumbers Title 77, Chapter 18, The Judgment;
- 42       ▶ amends provisions on presentence investigation reports;
- 43       ▶ amends provisions on the suspension of a sentence and the terms and conditions of
- 44 probation;
- 45       ▶ amends provisions regarding home confinement for a probationer;
- 46       ▶ amends provisions regarding the termination, revocation, modification, or extension
- 47 of probation;
- 48       ▶ amends provisions regarding standards for supervision and presentence
- 49 investigation reports;
- 50       ▶ requires a court to enter a civil accounts receivable and a civil judgment of
- 51 restitution upon the termination of a defendant's sentence if there is an unpaid
- 52 balance of the defendant's criminal accounts receivable;
- 53       ▶ requires the court to enter a civil accounts receivable and a civil judgment of
- 54 restitution if a defendant does not owe restitution and the defendant's criminal
- 55 accounts receivable is 90 days past due;
- 56       ▶ enacts provisions regarding civil accounts receivables and civil judgments of
- 57 restitution;
- 58       ▶ allows the sentencing court to retain jurisdiction over a defendant's case for certain

- 59 reasons;
- 60       ▶ repeals the authority of the Board of Pardons and Parole to enter an order for  
61 restitution;
- 62       ▶ allows the Board of Pardons and Parole to remit a criminal accounts receivable and  
63 modify a payment schedule for a criminal accounts receivable;
- 64       ▶ amends provisions on the conditions for parole;
- 65       ▶ provides that a defendant may be required to pay a criminal accounts receivable  
66 during incarceration or parole supervision;
- 67       ▶ requires the Board of Pardons and Parole to refer an offender's case to the  
68 sentencing court if an order for restitution or a criminal accounts receivable has not  
69 been entered by the court within certain time periods;
- 70       ▶ requires the Board of Pardons and Parole to refer an offender's case to the  
71 sentencing court for any challenges to the defendant's criminal accounts receivable;
- 72       ▶ provides certain notice requirements for a modification of a criminal accounts  
73 receivable;
- 74       ▶ allows the Board of Pardons and Parole to enter an order to recover certain  
75 damages;
- 76       ▶ amends provisions related to extradition costs for a defendant;
- 77       ▶ reorganizes and renumbers Title 77, Chapter 32a, Criminal Accounts Receivable  
78 and Defense Costs;
- 79       ▶ enacts provisions relating to criminal accounts receivables;
- 80       ▶ modifies provisions regarding costs that a defendant may be ordered to pay;
- 81       ▶ allows for the remittance or modification of a criminal accounts receivable in  
82 certain circumstances;
- 83       ▶ provides the requirements for remittance or modification of a criminal accounts  
84 receivable, or modification of a payment schedule for a criminal accounts  
85 receivable;
- 86       ▶ provides that certain victim information maintained by the Utah State Courts is  
87 classified as protected;
- 88       ▶ provides that victim contact information and impact statement is available to the  
89 Utah State Courts;

- 90           ▶ requires a victim to provide contact information to the court for restitution and  
91 hearing purposes;
- 92           ▶ reorganizes and renumbers Title 77, Chapter 38a, Crime Victims Restitution Act;
- 93           ▶ enacts provisions relating to restitution information collected by a law enforcement  
94 agency;
- 95           ▶ enacts provisions relating to a prosecuting attorney's responsibilities for gathering  
96 restitution information and depositing restitution money;
- 97           ▶ enacts provisions on the Department of Correction's responsibilities in preparing the  
98 presentence investigation report with restitution information;
- 99           ▶ requires a victim to submit certain information in a restitution claim;
- 100          ▶ addresses protecting a victim's identity, and a victim's family's identity, in  
101 information submitted to the court for restitution purposes;
- 102          ▶ allows a defendant to view protected, safeguarded, or confidential information about  
103 a victim or a victim's family in certain circumstances;
- 104          ▶ amends provisions related to a financial declaration by a defendant;
- 105          ▶ enacts provisions relating to an order for restitution;
- 106          ▶ enacts provisions related to the enforceability, nature, effect, and satisfaction of a  
107 civil judgment of restitution and a civil accounts receivable;
- 108          ▶ addresses interest on a civil judgment of restitution and civil accounts receivable;
- 109          ▶ addresses the default or delinquency of a civil accounts receivable and a civil  
110 judgment of restitution;
- 111          ▶ provides that a civil judgment of restitution and a civil accounts receivable may not  
112 be discharged in bankruptcy;
- 113          ▶ addresses a civil action for restitution by a victim;
- 114          ▶ addresses the priority of payments for a restitution, a criminal accounts receivable, a  
115 civil judgment of restitution, and a civil accounts receivable;
- 116          ▶ amends provisions regarding the enforcement and collection of restitution;
- 117          ▶ addresses contempt of court for delinquency or default of a civil accounts receivable  
118 or a civil judgment of restitution;
- 119          ▶ repeals statutes relating to restitution, probation, and criminal accounts receivables;
- 120 and

121           ▶ makes technical and conforming changes.

122 **Money Appropriated in this Bill:**

123           None

124 **Other Special Clauses:**

125           None

126 **Utah Code Sections Affected:**

127 **AMENDS:**

128           **17-50-319**, as last amended by Laws of Utah 2016, Chapter 243

129           **32B-4-305**, as enacted by Laws of Utah 2010, Chapter 276

130           **58-50-2**, as last amended by Laws of Utah 2006, Chapter 196

131           **58-50-9**, as last amended by Laws of Utah 1995, Chapters 20 and 352

132           **58-50-10**, as last amended by Laws of Utah 1995, Chapters 20 and 352

133           **59-10-529**, as last amended by Laws of Utah 2017, Chapter 270

134           **62A-15-625**, as last amended by Laws of Utah 2018, Chapter 322

135           **63A-3-501**, as last amended by Laws of Utah 2016, Chapters 129 and 298

136           **63A-3-502**, as last amended by Laws of Utah 2017, Chapters 56 and 304

137           **63A-3-504**, as renumbered and amended by Laws of Utah 2011, Chapter 79

138           **63A-3-505**, as last amended by Laws of Utah 2016, Chapter 192

139           **63A-3-507**, as last amended by Laws of Utah 2019, Chapter 269

140           **63I-1-263**, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230,  
141 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws  
142 of Utah 2020, Chapter 360

143           **63M-7-303**, as last amended by Laws of Utah 2018, Chapter 414

144           **63M-7-305**, as last amended by Laws of Utah 2016, Chapters 158 and 191

145           **63M-7-502**, as last amended by Laws of Utah 2020, Chapters 149 and 230

146           **63M-7-503**, as last amended by Laws of Utah 2020, Chapter 149

147           **63M-7-513**, as last amended by Laws of Utah 2020, Chapter 149

148           **64-13-1**, as last amended by Laws of Utah 2016, Chapter 243

149           **64-13-6**, as last amended by Laws of Utah 2018, Chapter 200

150           **64-13-21**, as last amended by Laws of Utah 2019, Chapter 27

151           **64-13-23**, as last amended by Laws of Utah 2002, Chapter 140

152 [64-13-33](#), as last amended by Laws of Utah 2009, Chapter 258  
153 [64-13e-102](#), as last amended by Laws of Utah 2020, Chapters 354 and 410  
154 [75-7-503](#), as last amended by Laws of Utah 2018, Chapter 116  
155 [76-2-404](#), as last amended by Laws of Utah 2015, Chapter 47  
156 [76-3-208](#), as last amended by Laws of Utah 2019, Chapter 222  
157 [76-3-301.5](#), as enacted by Laws of Utah 1988, Chapter 152  
158 [76-3-406](#), as last amended by Laws of Utah 2020, Chapter 214  
159 [76-6-107.1](#), as renumbered and amended by Laws of Utah 2008, Chapter 3  
160 [76-6-111](#), as last amended by Laws of Utah 2017, Chapter 345  
161 [76-6-206.2](#), as last amended by Laws of Utah 2009, Chapter 344  
162 [76-6-206.3](#), as enacted by Laws of Utah 2009, Chapter 270  
163 [76-6-1102](#), as last amended by Laws of Utah 2015, Chapter 258  
164 [76-6-1105](#), as last amended by Laws of Utah 2018, Chapter 221  
165 [76-10-1204](#), as last amended by Laws of Utah 2009, Chapter 345  
166 [76-10-1205](#), as last amended by Laws of Utah 2007, Chapter 337  
167 [76-10-1206](#), as last amended by Laws of Utah 2019, Chapters 189 and 382  
168 [76-10-1214](#), as last amended by Laws of Utah 1990, Chapter 163  
169 [76-10-1228](#), as last amended by Laws of Utah 2007, Chapter 123  
170 [77-1-3](#), as last amended by Laws of Utah 2015, Chapter 412  
171 [77-2-2](#), as enacted by Laws of Utah 1980, Chapter 15  
172 [77-2-5](#), as enacted by Laws of Utah 1980, Chapter 15  
173 [77-2a-1](#), as enacted by Laws of Utah 1993, Chapter 82  
174 [77-2a-3](#), as last amended by Laws of Utah 2008, Chapters 3, 339, and 382  
175 [77-7-5](#), as last amended by Laws of Utah 2019, Chapter 406  
176 [77-7-21](#), as last amended by Laws of Utah 2020, Chapter 185  
177 [77-19-10](#), as last amended by Laws of Utah 2015, Chapter 47  
178 [77-20-4](#), as last amended by Laws of Utah 2020, Chapter 185  
179 [77-20b-101](#), as last amended by Laws of Utah 2020, Chapter 185  
180 [77-27-1](#), as last amended by Laws of Utah 2015, Chapter 412  
181 [77-27-2](#), as last amended by Laws of Utah 2020, Chapters 352 and 373  
182 [77-27-5](#), as last amended by Laws of Utah 2019, Chapter 148

- 183 [77-27-11](#), as last amended by Laws of Utah 2018, Chapter 334
- 184 [77-30-24](#), as last amended by Laws of Utah 1987, Chapter 107
- 185 [77-37-3](#), as last amended by Laws of Utah 2014, Chapter 232
- 186 [77-37-5](#), as last amended by Laws of Utah 2011, Chapter 131
- 187 [77-38-3](#), as last amended by Laws of Utah 2016, Chapter 223
- 188 [77-38-15](#), as last amended by Laws of Utah 2019, Chapter 26
- 189 [77-40-102](#), as last amended by Laws of Utah 2020, Chapter 354
- 190 [77-40-105](#), as last amended by Laws of Utah 2020, Chapters 177 and 218
- 191 [78A-2-214](#), as last amended by Laws of Utah 2011, Chapter 79
- 192 [78A-2-231](#), as last amended by Laws of Utah 2020, Chapter 12
- 193 [78B-2-115](#), as last amended by Laws of Utah 2017, Chapter 304
- 194 [78B-5-502](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 195 [78B-5-505](#), as last amended by Laws of Utah 2020, Chapter 425
- 196 [78B-6-317](#), as enacted by Laws of Utah 2017, Chapter 304
- 197 [78B-7-804](#), as enacted by Laws of Utah 2020, Chapter 142

198 ENACTS:

- 199 [77-18-101](#), Utah Code Annotated 1953
- 200 [77-18-102](#), Utah Code Annotated 1953
- 201 [77-18-103](#), Utah Code Annotated 1953
- 202 [77-18-105](#), Utah Code Annotated 1953
- 203 [77-18-106](#), Utah Code Annotated 1953
- 204 [77-18-107](#), Utah Code Annotated 1953
- 205 [77-18-108](#), Utah Code Annotated 1953
- 206 [77-18-109](#), Utah Code Annotated 1953
- 207 [77-18-114](#), Utah Code Annotated 1953
- 208 [77-18-118](#), Utah Code Annotated 1953
- 209 [77-27-6.1](#), Utah Code Annotated 1953
- 210 [77-32b-101](#), Utah Code Annotated 1953
- 211 [77-32b-103](#), Utah Code Annotated 1953
- 212 [77-32b-105](#), Utah Code Annotated 1953
- 213 [77-32b-106](#), Utah Code Annotated 1953

- 214 [77-38b-201](#), Utah Code Annotated 1953
- 215 [77-38b-202](#), Utah Code Annotated 1953
- 216 [77-38b-203](#), Utah Code Annotated 1953
- 217 [77-38b-205](#), Utah Code Annotated 1953
- 218 [77-38b-301](#), Utah Code Annotated 1953
- 219 [77-38b-302](#), Utah Code Annotated 1953
- 220 [77-38b-303](#), Utah Code Annotated 1953

221 REPEALS AND REENACTS:

- 222 [76-3-201](#), as last amended by Laws of Utah 2017, Chapter 304

223 RENUMBERS AND AMENDS:

- 224 [77-2-2.1](#), (Renumbered from 77-2-1, as enacted by Laws of Utah 1980, Chapter 15)
- 225 [77-2-2.2](#), (Renumbered from 77-2-1.1, as enacted by Laws of Utah 1992, Chapter 33)
- 226 [77-2-2.3](#), (Renumbered from 77-2-1.2, as enacted by Laws of Utah 2020, Chapter 151)
- 227 [77-18-104](#), (Renumbered from 77-18-1.1, as last amended by Laws of Utah 2016,
- 228 Chapter 158)
- 229 [77-18-110](#), (Renumbered from 77-18-3, as last amended by Laws of Utah 2008,
- 230 Chapter 3)
- 231 [77-18-111](#), (Renumbered from 77-18-4, as last amended by Laws of Utah 1994,
- 232 Chapter 13)
- 233 [77-18-112](#), (Renumbered from 77-18-5, as last amended by Laws of Utah 1994,
- 234 Chapter 13)
- 235 [77-18-113](#), (Renumbered from 77-18-5.5, as last amended by Laws of Utah 2015,
- 236 Chapter 47)
- 237 [77-18-115](#), (Renumbered from 77-18-6.5, as enacted by Laws of Utah 1997, Chapter
- 238 223)
- 239 [77-18-116](#), (Renumbered from 77-18-7, as enacted by Laws of Utah 1980, Chapter 15)
- 240 [77-18-117](#), (Renumbered from 77-18-8, as enacted by Laws of Utah 1980, Chapter 15)
- 241 [77-32b-102](#), (Renumbered from 77-32a-101, as enacted by Laws of Utah 2017, Chapter
- 242 304)
- 243 [77-32b-104](#), (Renumbered from 77-32a-107, as renumbered and amended by Laws of
- 244 Utah 2017, Chapter 304)



- 245            **77-32b-107**, (Renumbered from 77-32a-110, as renumbered and amended by Laws of
- 246 Utah 2017, Chapter 304)
- 247            **77-38b-101**, (Renumbered from 77-38a-101, as enacted by Laws of Utah 2001, Chapter
- 248 137)
- 249            **77-38b-102**, (Renumbered from 77-38a-102, as last amended by Laws of Utah 2020,
- 250 Chapter 214)
- 251            **77-38b-204**, (Renumbered from 77-38a-204, as enacted by Laws of Utah 2013, Chapter
- 252 74)
- 253            **77-38b-304**, (Renumbered from 77-38a-404, as last amended by Laws of Utah 2020,
- 254 Chapter 214)
- 255            **77-38b-401**, (Renumbered from 77-38a-502, as enacted by Laws of Utah 2001, Chapter
- 256 137)
- 257            **77-38b-402**, (Renumbered from 77-38a-601, as last amended by Laws of Utah 2009,
- 258 Chapter 265)
- 259 REPEALS:
- 260            **76-6-412.5**, as last amended by Laws of Utah 2013, Chapter 187
- 261            **77-18-1**, as last amended by Laws of Utah 2020, Chapters 209, 299, and 354
- 262            **77-18-6**, as last amended by Laws of Utah 2017, Chapter 304
- 263            **77-27-6**, as last amended by Laws of Utah 2016, Chapter 223
- 264            **77-32a-102**, as last amended by Laws of Utah 2018, Chapters 136 and 281
- 265            **77-32a-103**, as enacted by Laws of Utah 2017, Chapter 304
- 266            **77-32a-104**, as enacted by Laws of Utah 2017, Chapter 304
- 267            **77-32a-105**, as enacted by Laws of Utah 2017, Chapter 304
- 268            **77-32a-106**, as enacted by Laws of Utah 2017, Chapter 304
- 269            **77-32a-108**, as renumbered and amended by Laws of Utah 2017, Chapter 304
- 270            **77-32a-109**, as renumbered and amended by Laws of Utah 2017, Chapter 304
- 271            **77-38a-201**, as enacted by Laws of Utah 2001, Chapter 137
- 272            **77-38a-202**, as last amended by Laws of Utah 2011, Chapter 131
- 273            **77-38a-203**, as last amended by Laws of Utah 2013, Chapter 74
- 274            **77-38a-301**, as last amended by Laws of Utah 2017, Chapter 304
- 275            **77-38a-302**, as last amended by Laws of Utah 2020, Chapter 214

276 77-38a-401, as last amended by Laws of Utah 2018, Chapter 281

277 77-38a-402, as enacted by Laws of Utah 2001, Chapter 137

278 77-38a-403, as enacted by Laws of Utah 2001, Chapter 137

279 77-38a-501, as last amended by Laws of Utah 2017, Chapter 304



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

282 Section 1. Section 17-50-319 is amended to read:

283 **17-50-319. County charges enumerated.**

284 (1) County charges are:

285 (a) [~~those~~] charges incurred against the county by any law;

286 (b) the necessary expenses of the county attorney or district attorney incurred in  
287 criminal cases arising in the county, and all other expenses necessarily incurred by the county  
288 or district attorney in the prosecution of criminal cases, except jury and witness fees;

289 (c) the expenses of medical care as described in Section 17-22-8, and other expenses  
290 necessarily incurred in the support of persons charged with or convicted of a criminal offense  
291 and committed to the county jail, except as provided in Subsection (2);

292 (d) for a county not within the state district court administrative system, the sum  
293 required by law to be paid jurors in civil cases;

294 (e) all charges and accounts for services rendered by any justice court judge for  
295 services in the trial and examination of persons charged with a criminal offense not otherwise  
296 provided for by law;

297 (f) the contingent expenses necessarily incurred for the use and benefit of the county;

298 (g) every other sum directed by law to be raised for any county purposes under the  
299 direction of the county legislative body or declared a county charge;

300 (h) the fees of constables for services rendered in criminal cases;

301 (i) the necessary expenses of the sheriff and deputies incurred in civil and criminal  
302 cases arising in the county, and all other expenses necessarily incurred by the sheriff and  
303 deputies in performing the duties imposed upon them by law;

304 (j) the sums required by law to be paid by the county to jurors and witnesses serving at  
305 inquests and in criminal cases in justice courts; and

306 (k) subject to Subsection (2), expenses incurred by a health care facility or provider in

307 providing medical services, treatment, hospitalization, or related transportation, at the request  
308 of a county sheriff for:

- 309 (i) persons booked into a county jail on a charge of a criminal offense; or  
310 (ii) persons convicted of a criminal offense and committed to a county jail.

311 (2) (a) Expenses described in Subsections (1)(c) and (1)(k) are a charge to the county  
312 only to the extent that they exceed any private insurance in effect that covers ~~[those expenses]~~  
313 the expenses described in Subsections (1)(c) and (1)(k).

314 (b) The county may collect costs of medical care, treatment, hospitalization, and related  
315 transportation provided to the person described in Subsection (1)(k) who has the resources or  
316 the ability to pay, subject to the following priorities for payment:

- 317 (i) first priority shall be given to restitution; and  
318 (ii) second priority shall be given to family support obligations.

319 (c) A county may seek reimbursement from a person described in Subsection (1)(k) for  
320 expenses incurred by the county in behalf of the inmate for medical care, treatment,  
321 hospitalization, or related transportation by:

322 (i) deducting the cost from the inmate's cash account on deposit with the detention  
323 facility during the inmate's incarceration or during a subsequent incarceration if the subsequent  
324 incarceration occurs within the same county and the incarceration is within 10 years of the date  
325 of the expense in behalf of the inmate;

326 (ii) placing a lien for the amount of the expense against the inmate's personal property  
327 held by the jail; and

328 (iii) adding the amount of expenses incurred to any other amount owed by the inmate  
329 to the jail upon the inmate's release~~[, as allowed under Subsection 76-3-201(6)(a).]~~ in  
330 accordance with Subsection 76-3-201(4)(d).

331 (d) An inmate who receives medical care, treatment, hospitalization, or related  
332 transportation shall cooperate with the jail facility seeking payment or reimbursement under  
333 this section for the inmate's expenses.

334 (e) If there is no contract between a county jail and a health care facility or provider  
335 that establishes a fee schedule for medical services rendered, expenses under Subsection (1)(k)  
336 shall be commensurate with:

- 337 (i) for a health care facility, the current noncapitated state Medicaid rates; and

338 (ii) for a health care provider, 65% of the amount that would be paid to the health care  
339 provider:

340 (A) under the Public Employees' Benefit and Insurance Program, created in Section  
341 [49-20-103](#); and

342 (B) if the person receiving the medical service were a covered employee under the  
343 Public Employees' Benefit and Insurance Program.

344 (f) Subsection (1)(k) does not apply to expenses of a person held at the jail at the  
345 request of an agency of the United States.

346 (g) A county that receives information from the Public Employees' Benefit and  
347 Insurance Program to enable the county to calculate the amount to be paid to a health care  
348 provider under Subsection (2)(e)(ii) shall keep that information confidential.

349 Section 2. Section **32B-4-305** is amended to read:

350 **32B-4-305. Additional criminal penalties.**

351 (1) (a) ~~[For purposes of this section]~~ As used in this section, "business entity" means a  
352 corporation, partnership, association, limited liability company, or similar entity.

353 (b) In addition to the penalties provided in Title 76, Chapter 3, Punishments, this  
354 section applies.

355 (2) Upon a defendant's conviction of an offense defined in this title, the court may  
356 order the defendant to ~~[make restitution or pay costs in accordance with Title 77, Chapter 32a,~~  
357 ~~Criminal Accounts Receivable and Defense Costs.]~~ pay restitution or costs in accordance with  
358 Subsection [76-3-201](#)(4).

359 (3) (a) Upon a business entity's conviction of an offense defined in this title, and a  
360 failure of the business entity to pay a fine imposed upon it:

361 (i) if it is a domestic business entity, the powers, rights, and privileges of the business  
362 entity may be suspended or revoked; and

363 (ii) if it is a foreign business entity, it forfeits its right to do intrastate business in this  
364 state.

365 (b) The department shall transmit the name of a business entity described in Subsection  
366 (3)(a) to the Division of Corporations and Commercial Code. Upon receipt of the information,  
367 the Division of Corporations and Commercial Code shall immediately record the action in a  
368 manner that makes the information available to the public.

369 (c) A suspension, revocation, or forfeiture under this Subsection (3) is effective from  
370 the day on which the Division of Corporations and Commercial Code records the information.

371 (d) A certificate of the Division of Corporations and Commercial Code is prima facie  
372 evidence of a suspension, revocation, or forfeiture.

373 (e) This section may not be construed as affecting, limiting, or restricting a proceeding  
374 that otherwise may be taken for the imposition of any other punishment or the modes of  
375 enforcement or recovery of fines or penalties.

376 (4) (a) Upon the conviction of a business entity required to have a business license to  
377 operate its business activities, or upon the conviction of any of its staff of any offense defined  
378 in this title, with the knowledge, consent, or acquiescence of the business entity, the department  
379 shall forward a copy of the judgment of conviction to the appropriate governmental entity  
380 responsible for issuing and revoking the business license.

381 (b) A governmental entity that receives a copy of a judgment under this Subsection (4)  
382 may institute appropriate proceedings to revoke the business license.

383 (c) Upon revocation under this Subsection (4), a governmental entity may not issue a  
384 business license to the business entity for at least one year from the date of revocation.

385 (d) Upon the conviction for a second or other offense, the governmental entity may not  
386 issue a business license for at least two years from the date of revocation.

387 (5) (a) Upon conviction of one of the following of an offense defined in this title, the  
388 department shall forward a certified copy of the judgment of conviction to the Division of  
389 Occupational and Professional Licensing:

390 (i) a health care practitioner; or

391 (ii) an individual licensed as a veterinarian under Title 58, Chapter 28, Veterinary  
392 Practice Act.

393 (b) The Division of Occupational and Professional Licensing may bring a proceeding  
394 in accordance with Title 58, Occupations and Professions, to revoke the license issued under  
395 Title 58, Occupations and Professions, of an individual described in Subsection (5)(a).

396 (c) Upon revocation of a license under Subsection (5)(b):

397 (i) the Division of Occupational and Professional Licensing may not issue a license to  
398 the individual under Title 58, Occupations and Professions, for at least one year from the date  
399 of revocation; and

400 (ii) if the individual is convicted of a second or subsequent offense, the Division of  
401 Occupational and Professional Licensing may not issue a license to the individual under Title  
402 58, Occupations and Professions, for at least two years from the date of revocation.

403 Section 3. Section **58-50-2** is amended to read:

404 **58-50-2. Definitions.**

405 In addition to the definitions in Section **58-1-102**, as used in this chapter:

406 (1) "Board" means the Private Probation Provider Licensing Board created in Section  
407 **58-50-3**.

408 (2) "Court" means the particular court [~~which~~] that orders probation in a case.

409 (3) "Private probation" means the preparation of presentence investigation reports and  
410 the performance of supervision services by a private probation provider and funded by a  
411 court-ordered fee, to be paid by the defendant, [~~pursuant to Section 77-18-1~~] in accordance  
412 with Subsection 77-18-105(6)(a)(vii).

413 (4) (a) "Private probation provider" means any private individual preparing presentence  
414 investigation reports or providing probation supervision [~~pursuant to~~] in accordance with a  
415 court order under Section [~~77-18-1~~] 77-18-105 and who is licensed under this chapter, and  
416 whose services are limited to minor offenses and misdemeanor violations.

417 (b) A private probation provider does not have the authority of a peace officer.

418 (5) "Unprofessional conduct" as defined in Section **58-1-501** and as may be further  
419 defined by rule includes:

420 (a) failure to disclose any financial or personal interest or prior relationship with parties  
421 that affects the private probation provider's impartiality or otherwise constitutes a conflict of  
422 interest;

423 (b) providing contract probation services when any financial or personal interest or  
424 prior relationship with parties affects the private probation provider's impartiality or otherwise  
425 constitutes an actual conflict of interest;

426 (c) failure to clearly define to the offender the services provided by the private  
427 probation provider, the rules of conduct, the criteria used, and the fees charged;

428 (d) failure to provide adequate supervision, or supervision as ordered by the court, as  
429 determined by the division in collaboration with the board; and

430 (e) failure to comply with the standards specified in Section **58-50-9**.

431 Section 4. Section **58-50-9** is amended to read:

432 **58-50-9. Standards of conduct for private probation providers.**

433 The private probation provider:

434 (1) shall maintain impartiality toward all parties;

435 (2) shall ensure that all parties understand the nature of the process, the procedure, the  
436 particular role of the private probation provider, and the parties' relationship to the private  
437 probation provider;

438 (3) shall maintain confidentiality or, in cases where confidentiality is not protected, the  
439 private probation provider shall so advise the parties;

440 (4) shall disclose any circumstance that may create or give the appearance of a conflict  
441 of interest and any circumstance that may reasonably raise a question as to the private  
442 probation provider's impartiality; if the contract probation supervisor perceives or believes a  
443 conflict of interest to exist, the contract probation supervisor shall refrain from entering into  
444 those probation services;

445 (5) shall adhere to the standards regarding private probation services adopted by the  
446 licensing board;

447 (6) shall comply with orders of court and perform services as directed by judges in  
448 individual cases; and

449 (7) shall perform duties established under Section [~~77-18-1~~] [77-18-105](#), as ordered by  
450 the court.

451 Section 5. Section **58-50-10** is amended to read:

452 **58-50-10. Exceptions from licensure.**

453 In addition to the exemptions from licensure in Section [58-1-307](#), the following persons  
454 may engage in probation supervision services subject to the stated circumstances and  
455 limitations without being licensed under this chapter:

456 (1) employees of the Department of Corrections while performing probation services as  
457 part of their normal duties and responsibilities;

458 (2) members of the armed forces and employees, agents, or representatives of the  
459 federal government while acting in their official capacity; and

460 (3) agencies of local government[~~, pursuant to Section [77-18-1](#)~~] in accordance with  
461 Section [77-18-105](#).

462 Section 6. Section **59-10-529** is amended to read:

463 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

464 (1) If there has been an overpayment of any tax imposed by this chapter, the amount of  
465 overpayment is credited as follows:

466 (a) against an income tax due from a taxpayer;

467 (b) against:

468 (i) the amount of a judgment against a taxpayer, including a final judgment or order  
469 requiring payment of a fine or of restitution to a victim under Title 77, Chapter ~~38a~~ 38b,  
470 Crime Victims Restitution Act, obtained through due process of law by an entity of state or  
471 local government; or

472 (ii) subject to Subsection (4)(a)(i), a child support obligation that is due or past due, as  
473 determined by the Office of Recovery Services in the Department of Human Services and after  
474 notice and an opportunity for an adjudicative proceeding, as provided in Subsection (4)(a)(iii);  
475 or

476 (c) subject to Subsections (3), (5), (6), and (7), as bail to ensure the appearance of a  
477 taxpayer before the appropriate authority to resolve an outstanding warrant against the taxpayer  
478 for which bail is due, if a court of competent jurisdiction has not approved an alternative form  
479 of payment.

480 (2) If a balance remains after an overpayment is credited in accordance with Subsection  
481 (1), the balance shall be refunded to the taxpayer.

482 (3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture:

483 (a) that is due and related to a warrant that is outstanding on or after February 16, 1984;  
484 and

485 (b) in accordance with Subsections (5) and (6).

486 (4) (a) The amount of an overpayment may be credited against an obligation described  
487 in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the  
488 taxpayer's last-known address or the address on file under Section 62A-11-304.4, stating:

489 (i) the amount of child support that is due or past due as of the date of the notice or  
490 other specified date;

491 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child  
492 support specified in the notice; and



493 (iii) that the taxpayer may contest the amount of past-due child support specified in the  
494 notice by filing a written request for an adjudicative proceeding with the office within 15 days  
495 of the notice being sent.

496 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
497 Office of Recovery Services shall establish rules to implement this Subsection (4), including  
498 procedures, in accordance with the other provisions of this section, to ensure:

499 (i) prompt reimbursement to a taxpayer of any amount of an overpayment that was  
500 credited against a child support obligation in error; and

501 (ii) prompt distribution of properly credited funds to the obligee parent.

502 (5) The amount of an overpayment may be credited against bail described in  
503 Subsection (1)(c) if:

504 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail,  
505 appear, or otherwise satisfy the terms of a citation, summons, or court order; and

506 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been  
507 sent to the taxpayer's current address on file with the commission.

508 (6) (a) (i) The commission shall deliver an overpayment applied as bail to the court that  
509 issued the warrant of arrest.

510 (ii) The clerk of the court is authorized to endorse the check or commission warrant of  
511 payment on behalf of the payees and deposit the money in the court treasury.

512 (b) (i) The court receiving an overpayment applied as bail shall order withdrawal of the  
513 warrant for arrest of the taxpayer if:

514 (A) the case is a case for which a personal appearance of the taxpayer is not required;  
515 and

516 (B) the dollar amount of the overpayment represents the full dollar amount of bail.

517 (ii) In a case except for a case described in Subsection (6)(b)(i):

518 (A) the court receiving the overpayment applied as bail is not required to order the  
519 withdrawal of the warrant of arrest of the taxpayer during the 40-day period; and

520 (B) the taxpayer may be arrested on the warrant.

521 (c) (i) If a taxpayer fails to respond to the notice required by Subsection (5)(b), or to  
522 resolve the warrant within 40 days after the notice is sent under Subsection (5)(b), the  
523 overpayment applied as bail is forfeited.

524 (ii) A court may issue another warrant or allow the original warrant to remain in force  
525 if:

526 (A) the taxpayer has not complied with an order of the court;

527 (B) the taxpayer has failed to appear and respond to a criminal charge for which a  
528 personal appearance is required; or

529 (C) the taxpayer has paid partial but not full bail in a case for which a personal  
530 appearance is not required.

531 (d) If the alleged violations named in a warrant are later resolved in favor of the  
532 taxpayer, the bail amount shall be remitted to the taxpayer.

533 (7) The fine and bail forfeiture provisions of this section apply to all warrants, fines,  
534 fees, and surcharges issued in cases charging a taxpayer with a felony, a misdemeanor, or an  
535 infraction described in this section, which are outstanding on or after February 16, 1984.

536 (8) If the amount allowed as a credit for tax withheld from a taxpayer exceeds the tax  
537 to which the credit relates, the excess is considered an overpayment.

538 (9) (a) Subject to Subsection (9)(b), a taxpayer shall claim a credit or refund of an  
539 overpayment that is attributable to a net operating loss carry back or carry forward within three  
540 years after the day on which the return for the taxable year of the net operating loss is due.

541 (b) The three-year period described in Subsection (9)(a) shall be extended by any  
542 extension of time provided in statute for filing the return described in Subsection (9)(a).

543 (10) If there is no tax liability for a period in which an amount is paid under this  
544 chapter, the amount is an overpayment.

545 (11) If a tax under this chapter is assessed or collected after the expiration of the  
546 applicable period of limitation, that amount is an overpayment.

547 (12) (a) A taxpayer may file a claim for a credit or refund of an overpayment within  
548 two years after the day on which a notice of change, notice of correction, or amended return is  
549 required to be filed with the commission if the taxpayer is required to:

550 (i) report a change or correction in income reported on the taxpayer's federal income  
551 tax return;

552 (ii) report a change or correction that is treated in the same manner as if the change or  
553 correction were an overpayment for federal income tax purposes; or

554 (iii) file an amended return with the commission.

555 (b) If a report or amended return is not filed within 90 days after the day on which the  
556 report or amended return is due, interest on any resulting refund or credit ceases to accrue after  
557 the 90-day period.

558 (c) The amount of the credit or refund may not exceed the amount of the reduction in  
559 tax attributable to the federal change, correction, or items amended on the taxpayer's amended  
560 federal income tax return.

561 (d) Except as provided in Subsection (12)(a), this Subsection (12) does not affect the  
562 amount or the time within which a claim for credit or refund may be filed.

563 (13) A credit or refund may not be allowed or made if an overpayment is less than \$1.

564 (14) In the case of an overpayment of tax by an employer under Part 4, Withholding of  
565 Tax, an employer shall receive a refund or credit only to the extent that the amount of the  
566 overpayment is not deducted and withheld from wages under this chapter.

567 (15) (a) If a taxpayer that is allowed a refund under this chapter dies, the commission  
568 may make payment to the personal representative of the taxpayer's estate.

569 (b) If there is no personal representative of the taxpayer's estate, the commission may  
570 make payment to those persons that establish entitlement to inherit the property of the decedent  
571 in the proportions established in Title 75, Utah Uniform Probate Code.

572 (16) If an overpayment relates to a change in net income described in Subsection  
573 [59-10-536\(2\)\(a\)](#), a credit may be allowed or a refund paid any time before the expiration of the  
574 period within which a deficiency may be assessed.

575 (17) An overpayment of a tax imposed by this chapter shall accrue interest at the rate  
576 and in the manner prescribed in Section [59-1-402](#).

577 (18) A pass-through entity may claim a refund of qualifying excess withholding in  
578 accordance with Section [59-10-1403.3](#) in lieu of a pass-through entity taxpayer claiming a tax  
579 credit under Section [59-7-614.4](#) or Section [59-10-1103](#).

580 Section 7. Section **62A-15-625** is amended to read:

581 **62A-15-625. Voluntary admission of adults.**

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

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

588 (3) An adult may be voluntarily admitted to a local mental health authority for  
589 treatment at the Utah State Hospital as a condition of probation or stay of sentence only after  
590 the requirements of [~~Subsection 77-18-1(13)~~] Section 77-18-106 have been met.

591 Section 8. Section **63A-3-501** is amended to read:

592 **63A-3-501. Definitions.**

593 As used in this part:

594 (1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency  
595 from an entity for which payment has not been received by the state agency that is servicing the  
596 debt.

597 (b) "Accounts receivable" includes:

598 (i) unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges,  
599 costs, contracts, interest, penalties, [~~restitution to victims,~~] third-party claims, sale of goods,  
600 sale of services, claims, and damages[-];

601 (ii) a civil accounts receivable; and

602 (iii) a civil judgment of restitution.

603 (c) "Accounts receivable" does not include a criminal accounts receivable.

604 (2) "Administrative offset" means:

605 (a) a reduction of an individual's tax refund or other payments due to the individual to  
606 reduce or eliminate accounts receivable that the individual owes to a state agency; and

607 (b) a reduction of an entity's tax refund or other payments due to the entity to reduce or  
608 eliminate accounts receivable that the entity owes to a state agency.

609 (3) "Civil accounts receivable" means the same as that term is defined in Section  
610 77-32b-102.

611 (4) "Civil judgment of restitution" means the same as that term is defined in Section  
612 77-32b-102.

613 (5) "Criminal accounts receivable" means the same as that term is defined in Section  
614 77-32b-102.

615 [~~(3)~~] (6) "Entity" means an individual, a corporation, partnership, or other organization  
616 that pays taxes to, or does business, with the state.

617           ~~[(4)]~~ (7) "Office" means the Office of State Debt Collection [~~established by this part~~]  
 618           created in Section [63A-3-502](#).

619           ~~[(5)]~~ (8) "Past due" means any accounts receivable that the state has not received by the  
 620           payment due date.

621           ~~[(6)]~~ (9) "Political subdivision" means the same as that term is defined in Section  
 622           [63G-7-102](#).

623           ~~[(7) "Restitution to victims" means restitution ordered by a court to be paid to a victim~~  
 624           ~~of an offense in a criminal or juvenile proceeding.]~~

625           (10) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

626           ~~[(8)]~~ (11) (a) "State agency" includes:

- 627           (i) an executive branch agency;
- 628           (ii) the legislative branch of state government; and
- 629           (iii) the judicial branches of state government, including justice courts.

630           (b) "State agency" does not include:

- 631           (i) any institution of higher education;
- 632           (ii) except in Subsection [63A-3-502\(7\)\(g\)](#), the State Tax Commission; or
- 633           (iii) the administrator of the Uninsured Employers' Fund appointed by the Labor  
 634           Commissioner under Section [34A-2-704](#), solely for the purposes of collecting money required  
 635           to be deposited into the Uninsured Employers' Fund under:

- 636           (A) Section [34A-1-405](#);
- 637           (B) Title 34A, Chapter 2, Workers' Compensation Act; or
- 638           (C) Title 34A, Chapter 3, Utah Occupational Disease Act.

639           ~~[(9)]~~ (12) "Writing-off" means the removal of an accounts receivable from an agency's  
 640           accounts receivable records but does not necessarily eliminate further collection efforts.

641           Section 9. Section [63A-3-502](#) is amended to read:

642           **[63A-3-502](#). Office of State Debt Collection created -- Duties.**

- 643           (1) The state and each state agency shall comply with:
  - 644           (a) the requirements of this chapter; and
  - 645           (b) any rules established by the Office of State Debt Collection.
- 646           (2) There is created the Office of State Debt Collection in the Division of Finance.
- 647           (3) The office shall:

- 648 (a) have overall responsibility for collecting and managing state receivables;
- 649 (b) assist the Division of Finance to develop consistent policies governing the  
650 collection and management of state receivables;
- 651 (c) oversee and monitor state receivables to ensure that state agencies are:
  - 652 (i) implementing all appropriate collection methods;
  - 653 (ii) following established receivables guidelines; and
  - 654 (iii) accounting for and reporting receivables in the appropriate manner;
- 655 (d) assist the Division of Finance to develop policies, procedures, and guidelines for  
656 accounting, reporting, and collecting money owed to the state;
- 657 (e) provide information, training, and technical assistance to each state agency on  
658 various collection-related topics;
- 659 (f) write an inclusive receivables management and collection manual for use by each  
660 state agency;
- 661 (g) prepare quarterly and annual reports of the state's receivables;
- 662 (h) create or coordinate a state accounts receivable database;
- 663 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an  
664 effective accounts receivable program;
- 665 (j) identify any state agency that is not making satisfactory progress toward  
666 implementing collection techniques and improving accounts receivable collections;
- 667 (k) coordinate information, systems, and procedures between each state agency to  
668 maximize the collection of past-due accounts receivable;
- 669 (l) establish an automated cash receipt process between each state agency;
- 670 (m) assist the Division of Finance to establish procedures for writing off accounts  
671 receivable for accounting and collection purposes;
- 672 (n) establish standard time limits after which an agency will delegate responsibility to  
673 collect state receivables to the office or ~~[its]~~ the office's designee;
- 674 (o) be a real party in interest for:
  - 675 (i) an account receivable referred to the office by any state agency ~~[or for any~~  
676 ~~restitution to victims referred to the office]~~; and
  - 677 (ii) a civil judgment of restitution entered on a civil judgment docket by a court; ~~[and]~~
- 678 (p) allocate money collected for ~~[judgments registered under Section 77-18-6]~~ a

679 judgment entered on the civil judgment docket under Section 77-18-114 in accordance with  
680 Sections 51-9-402, 63A-3-506, and 78A-5-110[~~;~~]; and

681 (q) if a criminal accounts receivable is transferred to the office under Subsection  
682 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts  
683 receivable.

684 (4) The office may:

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

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

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

690 (i) analyze the state's receivable management and collection efforts; and

691 (ii) identify improvements needed to further enhance the state's effectiveness in  
692 collecting its receivables;

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

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

696 (f) obtain access to records and databases of any state agency that are necessary to the  
697 duties of the office by following the procedures and requirements of Section 63G-2-206,  
698 including the financial [~~disclosure form described in Section 77-38a-204~~] declaration form  
699 described in Section 77-38b-204;

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

702 (i) a fee to cover the administrative costs of collection[~~;~~] on accounts administered by  
703 the office;

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

706 (iii) an interest charge that is:

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

709 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts

710 receivable for which no court judgment has been entered; and  
711 (iv) fees to collect accounts receivable for higher education;  
712 (h) collect reasonable attorney fees and reasonable costs of collection that are related to  
713 the collection of receivables under this chapter;  
714 (i) make rules that allow accounts receivable to be collected over a reasonable period  
715 of time and under certain conditions with credit cards;  
716 ~~[(j) file a satisfaction of judgment in the court by following the procedures and~~  
717 ~~requirements of the Utah Rules of Civil Procedure;]~~  
718 (j) for a case that is referred to the office or in which the office is a judgment creditor,  
719 file a motion or other document related to the office or the accounts receivable in that case,  
720 including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;  
721 (k) ensure that judgments for which the office is the judgment creditor are renewed, as  
722 necessary;  
723 (l) notwithstanding Section [63G-2-206](#), share records obtained under Subsection (4)(f)  
724 with private sector vendors under contract with the state to assist state agencies in collecting  
725 debts owed to the state agencies without changing the classification of any private, controlled,  
726 or protected record into a public record;  
727 (m) enter into written agreements with other governmental agencies to obtain and share  
728 information for the purpose of collecting state accounts receivable ~~[and restitution for victims];~~  
729 and  
730 (n) collect accounts receivable for a political subdivision of the state~~[-]~~ if the political  
731 subdivision enters into an agreement or contract with the office under Title 11, Chapter 13,  
732 Interlocal Cooperation Act, for the office to collect the political subdivision's accounts  
733 receivable.  
734 (5) The office shall ensure that:  
735 (a) a record obtained by the office or a private sector vendor ~~[as referred to in]~~ under  
736 Subsection (4)(l):  
737 (i) is used only for the limited purpose of collecting accounts receivable; and  
738 (ii) is subject to federal, state, and local agency records restrictions; and  
739 (b) any person employed by, or formerly employed by, the office or a private sector  
740 vendor as referred to in Subsection (4)(l) is subject to:



741 (i) the same duty of confidentiality with respect to the record imposed by law on  
742 officers and employees of the state agency from which the record was obtained; and

743 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a  
744 private, controlled, or protected record.

745 (6) (a) The office shall collect [~~accounts receivable~~] a civil accounts receivable or a  
746 civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense  
747 that have been transferred to the office under [~~Section 77-32a-102~~] Subsection 77-18-114(1) or  
748 (2).

749 (b) The office may not assess;

750 (i) the interest charge established by the office under Subsection (4) on an account  
751 receivable subject to the postjudgment interest rate established by Section 15-1-4[-]; and

752 (ii) an interest charge on a criminal accounts receivable that is transferred to the office  
753 under Subsection 77-32b-103(2)(a)(ii).

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

755 (a) transfer collection responsibilities to the office or [~~its~~] the office's designee  
756 according to time limits established by the office;

757 (b) make annual progress towards implementing collection techniques and improved  
758 accounts receivable collections;

759 (c) use the state's accounts receivable system or develop systems that are adequate to  
760 properly account for and report [~~their~~] the state's receivables;

761 (d) develop and implement internal policies and procedures that comply with the  
762 collections policies and guidelines established by the office;

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

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

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

769 (8) All interest, fees, and other amounts authorized to be [~~charged~~] collected by the  
770 office under Subsection (4)(g):

771 (a) are penalties that may be charged by the office; [~~and~~]

772 (b) do not require an order from a court for the office to assess or collect;  
773 [~~(b)~~] (c) are not compensation for actual pecuniary loss[-];  
774 (d) for a civil accounts receivable:  
775 (i) begin to accrue on the day on which the civil accounts receivable is entered on the  
776 civil judgment docket under Subsection 77-18-114(1) or (2); and  
777 (ii) may be collected as part of the civil accounts receivable;  
778 (e) for a civil judgment of restitution:  
779 (i) begin to accrue on the day on which the civil judgment of restitution is entered on  
780 the civil judgment docket under Subsection 77-18-114(1); and  
781 (ii) may be collected as part of the civil judgment of restitution;  
782 (f) for all other accounts receivable:  
783 (i) begin to accrue on the day on which the accounts receivable is transferred to the  
784 office, even if there is no court order on the day on which the accounts receivable is  
785 transferred; and  
786 (ii) may be collected as part of the accounts receivable; and  
787 (g) may be waived by:  
788 (i) the office; or  
789 (ii) if the interest, fee, or other amount is charged in error, the court.  
790 Section 10. Section **63A-3-504** is amended to read:  
791 **63A-3-504. Rulemaking authority -- Collection techniques.**  
792 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
793 office shall make rules:  
794 (1) providing details, as necessary, for the distribution of debts collected in accordance  
795 with the priorities under Subsection **63A-3-505(3)**; ~~and~~  
796 (2) to govern collection techniques, which may include the use of:  
797 (a) credit reporting bureaus;  
798 (b) collection agencies;  
799 (c) garnishments;  
800 (d) liens;  
801 (e) judgments; and  
802 (f) administrative offsets[-]; and

803 (3) permitting any payment for a civil judgment of restitution be credited toward  
 804 principal first and, if the principal amount owed for the civil judgment of restitution has been  
 805 satisfied, the remainder of the payment be credited to interest owed for the civil judgment of  
 806 restitution.

807 Section 11. Section **63A-3-505** is amended to read:

808 **63A-3-505. State Debt Collection Fund.**

809 (1) There is created an expendable special revenue fund entitled the "State Debt  
 810 Collection Fund."

811 (2) The fund consists of:

812 (a) all amounts appropriated to the fund under this chapter;

813 (b) fees and interest established by the office under Subsection **63A-3-502(4)(g)**; and

814 (c) except as otherwise provided by law, all postjudgment interest collected by the  
 815 office or the state, except postjudgment interest on ~~[restitution]~~ a civil judgment of restitution.

816 (3) Money in this fund shall be used to pay for:

817 (a) the costs of the office in the performance of ~~[its]~~ the office's duties under this  
 818 chapter;

819 (b) ~~[restitution to victims to whom the debt is owed]~~ a civil judgment of restitution for  
 820 which debt is owed;

821 (c) interest accrued that is associated with the debt;

822 (d) principal on the debt to the state agencies or other entities that placed the receivable  
 823 for collection; and

824 (e) other legal obligations including those ordered by a court.

825 (4) (a) The fund may collect interest.

826 (b) All interest earned from the fund shall be deposited in the General Fund.

827 (5) The office shall ensure that money remaining in the fund at the end of the fiscal  
 828 year that is not committed under the priorities established under Subsection (3) is deposited  
 829 into the General Fund.

830 Section 12. Section **63A-3-507** is amended to read:

831 **63A-3-507. Administrative garnishment order.**

832 (1) ~~[If]~~ Subject to Subsection (2), if a judgment is entered against a debtor, the office  
 833 may~~[, subject to Subsection (2),]~~ issue an administrative garnishment order against the debtor's

834 personal property, including wages, in the possession of a party other than the debtor in the  
835 same manner and with the same effect as if the order was a writ of garnishment issued by a  
836 court with jurisdiction.

837 (2) The office may issue the administrative garnishment order if ~~[the order is]:~~

838 (a) the order is signed by the director or the director's designee; and

839 (b) the underlying debt is for:

840 (i) nonpayment of ~~[a criminal judgment accounts receivable as defined in Section~~  
841 77-32a-101] a civil accounts receivable or a civil judgment of restitution; or

842 (ii) nonpayment of a judgment, or abstract of judgment or award filed with a court,  
843 based on an administrative order for payment issued by an agency of the state.

844 (3) An administrative garnishment order issued in accordance with this section is  
845 subject to the procedures and due process protections provided by Rule 64D, Utah Rules of  
846 Civil Procedure, except as provided by Section 70C-7-103.

847 (4) An administrative garnishment order issued by the office shall:

848 (a) contain a statement that includes:

849 (i) if known:

850 (A) the nature, location, account number, and estimated value of the property; and

851 (B) the name, address, and phone number of the person holding the property;

852 (ii) whether any of the property consists of earnings;

853 (iii) the amount of the judgment and the amount due on the judgment;

854 (iv) the name, address, and phone number of any person known to the plaintiff to claim  
855 an interest in the property; and

856 (v) that the plaintiff has attached or will serve the garnishee fee established in Section  
857 78A-2-216;

858 (b) identify the defendant, including:

859 (i) the defendant's name and address; and

860 (ii) if known:

861 (A) the last four digits of the defendant's Social Security number;

862 (B) the last four digits of the defendant's driver license; and

863 (C) the state in which the driver license was issued;

864 (c) include one or more interrogatories inquiring:

- 865 (i) whether the garnishee is indebted to the defendant and, if so, the nature of the  
866 indebtedness;
- 867 (ii) whether the garnishee possesses or controls any property of the defendant, and, if  
868 so, the nature, location, and estimated value of the property;
- 869 (iii)(A) whether the garnishee knows of any property of the defendant in the possession  
870 or under the control of another; and
- 871 (B) the nature, location, and estimated value of the defendant's property in possession  
872 or under the control of another, and the name, address, and phone number of the person with  
873 possession or control;
- 874 (iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim  
875 against the plaintiff or the defendant, a designation as to whom the claim relates, and the  
876 amount deducted;
- 877 (v) the date and manner of the garnishee's service of papers upon the defendant and any  
878 third party;
- 879 (vi) the dates on which previously served writs of continuing garnishment were served,  
880 if any; and
- 881 (vii) any other relevant information the office may request, including the defendant's  
882 position, rate, and method of compensation, pay period, or computation of the amount of the  
883 defendant's disposable earnings;
- 884 (d) notify the defendant of the defendant's right to reply to answers and request a  
885 hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and
- 886 (e) state where the garnishee may deliver property.
- 887 (5)(a) A garnishee who acts in accordance with this section and the administrative  
888 garnishment issued by the office is released from liability unless an answer to an interrogatory  
889 is successfully controverted.
- 890 (b) Except as provided in Subsection (5)(c), if the garnishee fails to comply with an  
891 administrative garnishment issued by the office without a court or final administrative order  
892 directing otherwise, the garnishee is liable to the office for an amount ordered by the court,  
893 including:
- 894 (i) the value of the property or the value of the judgment, whichever is less;
- 895 (ii) reasonable costs; and

896 (iii) attorney fees incurred by the parties as a result of the garnishee's failure.

897 (c) If the garnishee shows that the steps taken to secure the property were reasonable,  
898 the court may excuse the garnishee's liability in whole or in part.

899 (6) A creditor who files a motion for an order to show cause under this section shall  
900 attach to the motion a statement that the creditor has in good faith conferred or attempted to  
901 confer with the garnishee in an effort to settle the issue without court action.

902 (7) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a  
903 negotiable instrument if the instrument is not in the possession or control of the garnishee at  
904 the time of service of the administrative garnishment order.

905 (8)(a) A person indebted to the defendant may pay to the office the amount of the debt  
906 or an amount to satisfy the administrative garnishment.

907 (b) The office's receipt of an amount described in Subsection (8)(a) discharges the  
908 debtor for the amount paid.

909 (9) A garnishee may deduct from the property any liquidated claim against the  
910 defendant.

911 (10)(a) If a debt to the garnishee is secured by property, the office:

912 (i) is not required to apply the property to the debt when the office issues the  
913 administrative garnishment order; and

914 (ii) may obtain a court order authorizing the office to buy the debt and requiring the  
915 garnishee to deliver the property.

916 (b) Notwithstanding Subsection (10)(a)(i):

917 (i) the administrative garnishment order remains in effect; and

918 (ii) the office may apply the property to the debt.

919 (c) The office or a third party may perform an obligation of the defendant and require  
920 the garnishee to deliver the property upon completion of performance or, if performance is  
921 refused, upon tender of performance if:

922 (i) the obligation is secured by property; and

923 (ii)(A) the obligation does not require the personal performance of the defendant; and

924 (B) a third party may perform the obligation.

925 (11)(a) The office may issue a continuing garnishment order against a nonexempt  
926 periodic payment.

- 927 (b) This section is subject to the Utah Exemptions Act.
- 928 (c) A continuing garnishment order issued in accordance with this section applies to  
929 payments to the defendant from the date of service upon the garnishee until the earlier of the  
930 following:
- 931 (i) the last periodic payment;
- 932 (ii) the judgment upon which the administrative garnishment order is issued is stayed,  
933 vacated, or satisfied in full; or
- 934 (iii) the office releases the order.
- 935 (d) No later than seven days after the last day of each payment period, the garnishee  
936 shall with respect to that period:
- 937 (i) answer each interrogatory;
- 938 (ii) serve an answer to each interrogatory on the office, the defendant, and any other  
939 person who has a recorded interest in the property; and
- 940 (iii) deliver the property to the office.
- 941 (e) If the office issues a continuing garnishment order during the term of a writ of  
942 continuing garnishment issued by the district court, the order issued by the office:
- 943 (i) is tolled when a writ of garnishment or other income withholding is already in effect  
944 and is withholding greater than or equal to the maximum portion of disposable earnings  
945 described in Subsection (12);
- 946 (ii) is collected in the amount of the difference between the maximum portion of  
947 disposable earnings described in Subsection (12) and the amount being garnished by an  
948 existing writ of continuing garnishment if the maximum portion of disposable earnings exceed  
949 the existing writ of garnishment or other income withholding; and
- 950 (iii) shall take priority upon the termination of the current term of existing writs.
- 951 (12) The maximum portion of disposable earnings of an individual subject to seizure in  
952 accordance with this section is the lesser of:
- 953 (a) 25% of the defendant's disposable earnings for any other judgment; or
- 954 (b) the amount by which the defendant's disposable earnings for a pay period exceeds  
955 the number of weeks in that pay period multiplied by 30 times the federal minimum wage as  
956 provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.
- 957 (13) The administrative garnishment instituted in accordance with this section shall

958 continue to operate and require that a person withhold the nonexempt portion of earnings at  
959 each succeeding earning disbursement interval until the total amount due in the garnishment is  
960 withheld or the garnishment is released in writing by the court or office.

961 (14) If the office issues an administrative garnishment order under this section to  
962 collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the  
963 administrative garnishment order shall be construed as a continuation of the criminal action for  
964 which the civil accounts receivable or civil judgment of restitution arises if the amount owed is  
965 from a fine, fee, or restitution for the criminal action.

966 Section 13. Section **63I-1-263** is amended to read:

967 **63I-1-263. Repeal dates, Titles 63A to 63N.**

968 (1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

969 (a) Subsection **63A-1-201**(1) is repealed;

970 (b) Subsection **63A-1-202**(2)(c), the language "using criteria established by the board"  
971 is repealed;

972 (c) Section **63A-1-203** is repealed;

973 (d) Subsections **63A-1-204**(1) and (2), the language "After consultation with the board,  
974 and" is repealed; and

975 (e) Subsection **63A-1-204**(1)(b), the language "using the standards provided in  
976 Subsection **63A-1-203**(3)(c)" is repealed.

977 (2) Subsection **63A-5b-405**(5), relating to prioritizing and allocating capital  
978 improvement funding, is repealed July 1, 2024.

979 (3) Section **63A-5b-1003**, State Facility Energy Efficiency Fund, is repealed July 1,  
980 2023.

981 (4) Sections **63A-9-301** and **63A-9-302**, related to the Motor Vehicle Review  
982 Committee, are repealed July 1, 2023.

983 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July  
984 1, 2028.

985 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,  
986 2025.

987 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,  
988 2024.



- 989 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is  
990 repealed July 1, 2021.
- 991 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed  
992 July 1, 2023.
- 993 (10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.
- 994 (11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1,  
995 2025.
- 996 (12) Section [63G-6a-805](#), which creates the Purchasing from Persons with Disabilities  
997 Advisory Board, is repealed July 1, 2026.
- 998 (13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,  
999 2025.
- 1000 (14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,  
1001 2024.
- 1002 (15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 1003 (16) Subsection [63J-1-602.1\(14\)](#), Nurse Home Visiting Restricted Account is repealed  
1004 July 1, 2026.
- 1005 (17) (a) Subsection [63J-1-602.1\(58\)](#), relating to the Utah Statewide Radio System  
1006 Restricted Account, is repealed July 1, 2022.
- 1007 (b) When repealing Subsection [63J-1-602.1\(58\)](#), the Office of Legislative Research and  
1008 General Counsel shall, in addition to the office's authority under Subsection [36-12-12\(3\)](#), make  
1009 necessary changes to subsection numbering and cross references.
- 1010 (18) Subsection [63J-1-602.2\(4\)](#), referring to dedicated credits to the Utah Marriage  
1011 Commission, is repealed July 1, 2023.
- 1012 (19) Subsection [63J-1-602.2\(5\)](#), referring to the Trip Reduction Program, is repealed  
1013 July 1, 2022.
- 1014 (20) Subsection [63J-1-602.2\(25\)](#), related to the Utah Seismic Safety Commission, is  
1015 repealed January 1, 2025.
- 1016 (21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is  
1017 repealed July 1, 2027.
- 1018 (22) Subsection [63J-4-608\(3\)](#), which creates the Federal Land Application Advisory  
1019 Committee, is repealed on July 1, 2021.

- 1020 (23) In relation to the Utah Substance Use and Mental Health Advisory Council, on  
1021 January 1, 2023:
- 1022 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are  
1023 repealed;
- 1024 (b) Section [63M-7-305](#), the language that states "council" is replaced with  
1025 "commission";
- 1026 (c) Subsection [63M-7-305](#)(1) is repealed and replaced with:  
1027 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and  
1028 (d) Subsection [63M-7-305](#)(2) is repealed and replaced with:  
1029 "(2) The commission shall:
- 1030 (a) provide ongoing oversight of the implementation, functions, and evaluation of the  
1031 Drug-Related Offenses Reform Act; and
- 1032 (b) coordinate the implementation of Section [~~77-18-1.1~~] [77-18-104](#) and related  
1033 provisions in Subsections [~~77-18-1(5)(b)(iii) and (iv)~~] [77-18-103](#)(2)(c) and (d).".
- 1034 (24) The Crime Victim Reparations and Assistance Board, created in Section  
1035 [63M-7-504](#), is repealed July 1, 2027.
- 1036 (25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July  
1037 1, 2022.
- 1038 (26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.
- 1039 (27) Subsection [63N-1-301](#)(4)(c), related to the Talent Ready Utah Board, is repealed  
1040 January 1, 2023.
- 1041 (28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating  
1042 Council, is repealed July 1, 2024.
- 1043 (29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.
- 1044 (30) Section [63N-2-512](#) is repealed July 1, 2021.
- 1045 (31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed  
1046 January 1, 2021.
- 1047 (b) Section [59-9-107](#) regarding tax credits against premium taxes is repealed for  
1048 calendar years beginning on or after January 1, 2021.
- 1049 (c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in  
1050 accordance with Section [59-9-107](#) if:

1051 (i) the person is entitled to a tax credit under Section [59-9-107](#) on or before December  
1052 31, 2020; and

1053 (ii) the qualified equity investment that is the basis of the tax credit is certified under  
1054 Section [63N-2-603](#) on or before December 31, 2023.

1055 (32) Subsections [63N-3-109\(2\)\(e\)](#) and [63N-3-109\(2\)\(f\)\(i\)](#) are repealed July 1, 2023.

1056 (33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed  
1057 July 1, 2023.

1058 (34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1,  
1059 2025.

1060 (35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program,  
1061 is repealed January 1, 2023.

1062 (36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1,  
1063 2023.

1064 Section 14. Section **63M-7-303** is amended to read:

1065 **63M-7-303. Duties of council.**

1066 (1) The Utah Substance Use and Mental Health Advisory Council shall:

1067 (a) provide leadership and generate unity for Utah's ongoing efforts to reduce and  
1068 eliminate the impact of substance use and mental health disorders in Utah through a  
1069 comprehensive and evidence-based prevention, treatment, and justice strategy;

1070 (b) recommend and coordinate the creation, dissemination, and implementation of  
1071 statewide policies to address substance use and mental health disorders;

1072 (c) facilitate planning for a balanced continuum of substance use and mental health  
1073 disorder prevention, treatment, and justice services;

1074 (d) promote collaboration and mutually beneficial public and private partnerships;

1075 (e) coordinate recommendations made by any committee created under Section  
1076 [63M-7-302](#);

1077 (f) analyze and provide an objective assessment of all proposed legislation concerning  
1078 substance use, mental health, and related issues;

1079 (g) coordinate the implementation of Section [~~77-18-1.1~~] [77-18-104](#) and related  
1080 provisions in Subsections [~~77-18-1(5)(b)(iii) and (iv)~~] [77-18-103\(2\)\(c\)](#) and (d), as provided in  
1081 Section [63M-7-305](#);

1082 (h) comply with Section 32B-2-306; and

1083 (i) oversee coordination for the funding, implementation, and evaluation of suicide  
1084 prevention efforts described in Section 62A-15-1101.

1085 (2) The council shall meet quarterly or more frequently as determined necessary by the  
1086 chair.

1087 (3) The council shall report [~~its~~] the council's recommendations annually to the  
1088 commission, governor, the Legislature, and the Judicial Council.

1089 Section 15. Section 63M-7-305 is amended to read:

1090 **63M-7-305. Drug-Related Offenses Reform Act -- Coordination.**

1091 (1) As used in this section:

1092 (a) "Council" means the Utah Substance Use and Mental Health Advisory Council.

1093 (b) "Drug-Related Offenses Reform Act" and "act" mean the screening, assessment,  
1094 substance use disorder treatment, and supervision provided to convicted persons under  
1095 Subsection [~~77-18-1.1(2)~~] 77-18-104(2) to:

1096 (i) determine a person's specific substance use disorder treatment needs as early as  
1097 possible in the judicial process;

1098 (ii) expand treatment resources for persons in the community;

1099 (iii) integrate a person's treatment with supervision by the Department of Corrections;

1100 and

1101 (iv) reduce the incidence of substance use disorders and related criminal conduct.

1102 (c) "Substance abuse authority" [~~has the same meaning as~~] means the same as that term  
1103 is defined in Section 17-43-201.

1104 (2) The council shall provide ongoing oversight of the implementation, functions, and  
1105 evaluation of the Drug-Related Offenses Reform Act.

1106 (3) The council shall develop an implementation plan for the Drug-Related Offenses  
1107 Reform Act. The plan shall:

1108 (a) identify local substance abuse authority areas where the act will be implemented, in  
1109 cooperation with the Division of Substance Abuse and Mental Health, the Department of  
1110 Corrections, and the local substance abuse authorities;

1111 (b) include guidelines for local substance abuse authorities and the Utah Department of  
1112 Corrections on how funds appropriated under the act should be used, including eligibility

1113 requirements for convicted persons who participate in services funded by the act, that are  
1114 consistent with the recommendations of the Commission on Criminal and Juvenile Justice for  
1115 reducing recidivism; and

1116 (c) require that treatment plans under the act are appropriate for persons involved in the  
1117 criminal justice system.

1118 Section 16. Section **63M-7-502** is amended to read:

1119 **63M-7-502. Definitions.**

1120 As used in this part:

1121 (1) "Accomplice" means an individual who has engaged in criminal conduct as  
1122 described in Section [76-2-202](#).

1123 (2) "Board" means the Crime Victim Reparations and Assistance Board created under  
1124 Section [63M-7-504](#).

1125 (3) "Bodily injury" means physical pain, illness, or any impairment of physical  
1126 condition.

1127 (4) "Claimant" means any of the following claiming reparations under this part:

1128 (a) a victim;

1129 (b) a dependent of a deceased victim; or

1130 (c) an individual or representative who files a reparations claim on behalf of a victim.

1131 (5) "Child" means an unemancipated individual who is under 18 years old.

1132 (6) "Collateral source" means any source of benefits or advantages for economic loss  
1133 otherwise reparable under this part [~~which~~] that the victim or claimant has received, or [~~which~~]  
1134 that is readily available to the victim from:

1135 (a) the offender;

1136 (b) the insurance of the offender or the victim;

1137 (c) the United States government or any of its agencies, a state or any of its political  
1138 subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory  
1139 state-funded programs;

1140 (d) social security, Medicare, and Medicaid;

1141 (e) state-required temporary nonoccupational income replacement insurance or  
1142 disability income insurance;

1143 (f) workers' compensation;

- 1144 (g) wage continuation programs of any employer;
- 1145 (h) proceeds of a contract of insurance payable to the victim for the loss the victim
- 1146 sustained because of the criminally injurious conduct;
- 1147 (i) a contract providing prepaid hospital and other health care services or benefits for
- 1148 disability; or
- 1149 (j) veteran's benefits, including veteran's hospitalization benefits.
- 1150 (7) (a) "Criminally injurious conduct" other than acts of war declared or not declared
- 1151 means conduct that:
- 1152 (i) is or would be subject to prosecution in this state under Section 76-1-201;
- 1153 (ii) occurs or is attempted;
- 1154 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
- 1155 (iv) is punishable by fine, imprisonment, or death if the individual engaging in the
- 1156 conduct possessed the capacity to commit the conduct; and
- 1157 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,
- 1158 aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is
- 1159 conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the
- 1160 Person, or as any offense chargeable as driving under the influence of alcohol or drugs.
- 1161 (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C.
- 1162 Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism"
- 1163 does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.
- 1164 (c) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and
- 1165 other conduct leading to the psychological injury of an individual resulting from living in a
- 1166 setting that involves a bigamous relationship.
- 1167 (8) (a) "Dependent" means a natural person to whom the victim is wholly or partially
- 1168 legally responsible for care or support [~~and includes~~].
- 1169 (b) "Dependent" includes a child of the victim born after the victim's death.
- 1170 (9) "Dependent's economic loss" means loss after the victim's death of contributions of
- 1171 things of economic value to the victim's dependent, not including services the dependent would
- 1172 have received from the victim if the victim had not suffered the fatal injury, less expenses of
- 1173 the dependent avoided by reason of victim's death.
- 1174 (10) "Dependent's replacement services loss" means loss reasonably and necessarily

1175 incurred by the dependent after the victim's death in obtaining services in lieu of those the  
1176 decedent would have performed for the victim's benefit if the victim had not suffered the fatal  
1177 injury, less expenses of the dependent avoided by reason of the victim's death and not  
1178 subtracted in calculating the dependent's economic loss.

1179 (11) "Director" means the director of the office.

1180 (12) "Disposition" means the sentencing or determination of penalty or punishment to  
1181 be imposed upon an individual:

1182 (a) convicted of a crime;

1183 (b) found delinquent; or

1184 (c) against whom a finding of sufficient facts for conviction or finding of delinquency  
1185 is made.

1186 (13) (a) "Economic loss" means economic detriment consisting only of allowable  
1187 expense, work loss, replacement services loss, and if injury causes death, dependent's economic  
1188 loss and dependent's replacement service loss.

1189 (b) "Economic loss" includes economic detriment even if caused by pain and suffering  
1190 or physical impairment.

1191 (c) "Economic loss" does not include noneconomic detriment.

1192 (14) "Elderly victim" means an individual 60 years old or older who is a victim.

1193 (15) "Fraudulent claim" means a filed reparations based on material misrepresentation  
1194 of fact and intended to deceive the reparations staff for the purpose of obtaining reparation  
1195 funds for which the claimant is not eligible.

1196 (16) "Fund" means the Crime Victim Reparations Fund created in Section [63M-7-526](#).

1197 (17) "Law enforcement officer" means ~~a law enforcement officer as defined in Section~~  
1198 [53-13-103](#) the same as that term is defined in Section [53-13-103](#).

1199 (18) (a) "Medical examination" means a physical examination necessary to document  
1200 criminally injurious conduct ~~[but]~~.

1201 (b) "Medical examination" does not include mental health evaluations for the  
1202 prosecution and investigation of a crime.

1203 (19) "Mental health counseling" means outpatient and inpatient counseling necessitated  
1204 as a result of criminally injurious conduct, is subject to rules made by the board in accordance  
1205 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1206 (20) "Misconduct" [~~as provided in Subsection 63M-7-512(1)(b)~~] means conduct by the  
1207 victim [~~which~~] that was attributable to the injury or death of the victim as provided by rules  
1208 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
1209 Act.

1210 (21) "Noneconomic detriment" means pain, suffering, inconvenience, physical  
1211 impairment, and other nonpecuniary damage, except as provided in this part.

1212 (22) "Pecuniary loss" does not include loss attributable to pain and suffering except as  
1213 otherwise provided in this part.

1214 (23) "Offender" means an individual who has violated [~~the~~] Title 76, Utah Criminal  
1215 Code, through criminally injurious conduct regardless of whether the individual is arrested,  
1216 prosecuted, or convicted.

1217 (24) "Offense" means a violation of [~~the~~] Title 76, Utah Criminal Code.

1218 (25) "Office" means the director, the reparations and assistance officers, and any other  
1219 staff employed for the purpose of carrying out the provisions of this part.

1220 (26) "Perpetrator" means the individual who actually participated in the criminally  
1221 injurious conduct.

1222 (27) "Reparations award" means money or other benefits provided to a claimant or to  
1223 another on behalf of a claimant after the day on which a reparations claim is approved by the  
1224 office.

1225 (28) "Reparations claim" means a claimant's request or application made to the office  
1226 for a reparations award.

1227 (29) (a) "Reparations officer" means an individual employed by the office to  
1228 investigate claims of victims and award reparations under this part[~~and includes~~].

1229 (b) "Reparations officer" includes the director when the director is acting as a  
1230 reparations officer.

1231 (30) "Replacement service loss" means expenses reasonably and necessarily incurred in  
1232 obtaining ordinary and necessary services in lieu of those the injured individual would have  
1233 performed, not for income but the benefit of the injured individual or the injured individual's  
1234 dependents if the injured individual had not been injured.

1235 (31) (a) "Representative" means the victim, immediate family member, legal guardian,  
1236 attorney, conservator, executor, or an heir of an individual [~~but~~].



1237 (b) "Representative" does not include a service provider or collateral source.

1238 (32) "Restitution" means [~~money or services an appropriate authority orders an~~  
1239 ~~offender to pay or render to a victim of the offender's conduct.~~] the same as that term is defined  
1240 in Section 77-38b-102.

1241 (33) "Secondary victim" means an individual who is traumatically affected by the  
1242 criminally injurious conduct subject to rules made by the board in accordance with Title 63G,  
1243 Chapter 3, Utah Administrative Rulemaking Act.

1244 (34) "Service provider" means an individual or agency who provides a service to  
1245 [~~crime victims~~] a victim for a monetary fee, except attorneys as provided in Section  
1246 [63M-7-524](#).

1247 (35) "Serious bodily injury" means the same as that term is defined in Section  
1248 [76-1-601](#).

1249 (36) "Substantial bodily injury" means the same as that term is defined in Section  
1250 [76-1-601](#).

1251 (37) (a) "Victim" means an individual who suffers bodily or psychological injury or  
1252 death as a direct result of:

1253 (i) criminally injurious conduct; or [~~of~~]

1254 (ii) the production of pornography in violation of Section [76-5b-201](#) if the individual is  
1255 a minor.

1256 (b) "Victim" does not include an individual who participated in or observed the judicial  
1257 proceedings against an offender unless otherwise provided by statute or rule made in  
1258 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1259 (c) "Victim" includes a resident of this state who is injured or killed by an act of  
1260 terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

1261 (38) "Work loss" means loss of income from work the injured victim would have  
1262 performed if the injured victim had not been injured and expenses reasonably incurred by the  
1263 injured victim in obtaining services in lieu of those the injured victim would have performed  
1264 for income, reduced by any income from substitute work the injured victim was capable of  
1265 performing but unreasonably failed to undertake.

1266 Section 17. Section **63M-7-503** is amended to read:

1267 **63M-7-503. Restitution -- Reparations not to supplant restitution -- Assignment**

1268 **of claim for restitution judgment to Reparations Office.**

1269 (1) A reparations award may not supplant [~~restitution as established under Title 77,~~  
1270 ~~Chapter 38a, Crime Victims Restitution Act, or as established by any other provisions.] an  
1271 order for restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, or under any  
1272 other provision of law.~~

1273 (2) The court may not reduce an order [~~of~~] for restitution based on a reparations award.

1274 (3) (a) (i) [~~If, due to reparation payments to a victim, the office is assigned under~~  
1275 ~~Section 63M-7-519 a claim for the victim's judgment for restitution or a portion of the~~  
1276 ~~restitution]~~ If a victim receives a reparations award and the office is assigned the victim's claim  
1277 for restitution, or a portion of the victim's claim for restitution, under Section 63M-7-519, the  
1278 office may file with the sentencing court a notice of restitution listing the amounts or estimated  
1279 future amounts of payments made or anticipated to be made to or on behalf of the victim.

1280 (ii) The office may provide a [~~restitution notice~~] notice of restitution to the victim or  
1281 victim's representative before or at sentencing.

1282 (iii) The office's failure to provide notice under Subsection (3)(a)(i) or (ii) does not  
1283 invalidate the imposition of the judgment or [~~order of~~] an order for restitution if the defendant  
1284 is given the opportunity to object and be heard as provided in this part.

1285 (b) (i) Any objection by the defendant to the imposition or amount of restitution under  
1286 Subsection (3)(a)(i) shall be:

1287 (A) made at the time of sentencing; or

1288 (B) made in writing within 20 days after the day on which the defendant receives the  
1289 notice described in Subsection (3)(a)[~~to be~~] and filed with the court and a copy mailed to the  
1290 office.

1291 (ii) Upon [~~the filing of the~~] an objection, the court shall allow the defendant a [~~full~~]  
1292 hearing on the issue [in accordance with Subsection 77-38a-302(4)].

1293 (iii) After a hearing under Subsection (3)(b)(ii), the court shall:

1294 (A) enter an order for restitution in accordance with Section 77-38b-205; and

1295 (B) identify the office as an assignee for the order for restitution.

1296 [(iii) ~~The~~] (iv) Subject to the right of the defendant to object, the amount of restitution  
1297 sought by the office may be updated [at any time, subject to the right of the defendant to  
1298 object.] and the office identified as an assignee of an order for restitution in accordance with

1299 the time periods established under Subsection 77-38b-205(6).

1300 (4) If no objection is made or filed by the defendant under Subsection (3), ~~[then upon~~  
1301 ~~conviction and sentencing, the court shall enter a judgment for complete restitution under~~  
1302 ~~Subsections 76-3-201(4)(c) and (d) and identify the office as the assignee of the assigned~~  
1303 ~~portion of the judgment and order of restitution.]~~ the court shall, upon conviction and  
1304 sentencing:

1305 (a) enter an order for restitution in accordance with Section 77-38b-205; and

1306 (b) identify the office as an assignee for the order for restitution.

1307 (5) (a) If the notice of restitution is filed after sentencing but during the term of  
1308 probation or parole, the court ~~[or Board of Pardons]~~ shall:

1309 (i) modify any ~~[existing civil judgment and order of]~~ order for restitution to include  
1310 expenses paid by the office on behalf of the victim in accordance with Subsection

1311 77-38b-205(6); and

1312 (ii) identify the office as ~~[the]~~ an assignee of the ~~[assigned portion of the judgment and~~  
1313 ~~order of]~~ order for restitution. ~~[If no judgment or order of restitution has]~~

1314 (b) If an order for restitution has not been entered, the court shall enter ~~[a judgment for~~  
1315 ~~complete restitution and court-ordered restitution under Sections 77-38a-302 and 77-38a-401.];~~

1316 (i) an order for restitution in accordance with Section 77-38b-205; and

1317 (ii) identify the office as an assignee of the order for restitution.

1318 Section 18. Section **63M-7-513** is amended to read:

1319 **63M-7-513. Collateral sources.**

1320 (1) (a) An order ~~[of]~~ for restitution may not be considered readily available as a  
1321 collateral source.

1322 (b) Receipt of a reparations award under this part is considered an assignment of the  
1323 victim's rights to restitution from the offender.

1324 (2) (a) The victim may not discharge a claim against an individual or entity without the  
1325 office's written permission ~~[and]~~.

1326 (b) The victim shall fully cooperate with the office in pursuing the office's right of  
1327 reimbursement, including providing the office with any evidence in the victim's possession.

1328 (3) The office's right of reimbursement applies regardless of whether the victim is fully  
1329 compensated for the victim's losses.

1330 (4) Notwithstanding Subsection 63M-7-512(1)(a), a victim of a sexual offense who  
1331 requests testing of the victim's self may be reimbursed for the costs of the HIV test only as  
1332 provided in Subsection 76-5-503(4).

1333 Section 19. Section 64-13-1 is amended to read:

1334 **64-13-1. Definitions.**

1335 As used in this chapter:

1336 (1) "Case action plan" means a document developed by the Department of Corrections  
1337 that identifies the program priorities for the treatment of the offender, including the criminal  
1338 risk factors as determined by a risk and needs assessment conducted by the department.

1339 (2) "Community correctional center" means a nonsecure correctional facility operated  
1340 by the department.

1341 (3) "Correctional facility" means any facility operated to house offenders[~~either~~] in a  
1342 secure or nonsecure setting:

1343 (a) by the department; or

1344 (b) under a contract with the department.

1345 (4) "Criminal risk factors" means [~~a person's~~] an individual's characteristics and  
1346 behaviors that:

1347 (a) affect [~~that person's~~] the individual's risk of engaging in criminal behavior; and

1348 (b) are diminished when addressed by effective treatment, supervision, and other  
1349 support resources, resulting in a reduced risk of criminal behavior.

1350 (5) "Department" means the Department of Corrections.

1351 (6) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in  
1352 any correctional facility, or any situation that presents immediate danger to the safety, security,  
1353 and control of the department.

1354 (7) "Executive director" means the executive director of the Department of  
1355 Corrections.

1356 (8) "Inmate" means [~~any person~~] an individual who is:

1357 (a) committed to the custody of the department [~~and who is~~]; and

1358 (b) housed at a correctional facility or at a county jail at the request of the department.

1359 (9) "Offender" means [~~any person~~] an individual who has been convicted of a crime for  
1360 which [~~he~~] the individual may be committed to the custody of the department and is at least one

1361 of the following:

1362 (a) committed to the custody of the department;

1363 (b) on probation; or

1364 (c) on parole.

1365 (10) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

1366 ~~[(+H)]~~ (11) "Risk and needs assessment" means an actuarial tool validated on criminal  
1367 offenders that determines:

1368 (a) an individual's risk of reoffending; and

1369 (b) the criminal risk factors that, when addressed, reduce the individual's risk of  
1370 reoffending.

1371 ~~[(+H)]~~ (12) "Secure correctional facility" means any prison, penitentiary, or other  
1372 institution operated by the department or under contract for the confinement of offenders,  
1373 where force may be used to restrain ~~[them if they attempt]~~ an offender if the offender attempts  
1374 to leave the institution without authorization.

1375 Section 20. Section **64-13-6** is amended to read:

1376 **64-13-6. Department duties.**

1377 (1) The department shall:

1378 (a) protect the public through institutional care and confinement, and supervision in the  
1379 community of offenders where appropriate;

1380 (b) implement court-ordered punishment of offenders;

1381 (c) provide program opportunities for offenders;

1382 (d) provide treatment for sex offenders who are found to be treatable based upon  
1383 criteria developed by the department;

1384 (e) provide the results of ongoing assessment of sex offenders and objective diagnostic  
1385 testing to sentencing and release authorities;

1386 (f) manage programs that take into account the needs and interests of victims, where  
1387 reasonable;

1388 (g) supervise probationers and parolees as directed by statute and implemented by the  
1389 courts and the Board of Pardons and Parole;

1390 (h) subject to Subsection (2), investigate criminal conduct involving offenders  
1391 incarcerated in a state correctional facility;

1392 (i) cooperate and exchange information with other state, local, and federal law  
1393 enforcement agencies to achieve greater success in prevention and detection of crime and  
1394 apprehension of criminals;

1395 (j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult  
1396 Offender Supervision;

1397 (k) establish a case action plan for each offender as follows:

1398 (i) if an offender is to be supervised in the community, the case action plan shall be  
1399 established for the offender not more than 90 days after supervision by the department begins;

1400 and

1401 (ii) if the offender is committed to the custody of the department, the case action plan  
1402 shall be established for the offender not more than 120 days after the commitment; and

1403 (l) ensure that any training or certification required of a public official or public  
1404 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter  
1405 22, State Training and Certification Requirements, if the training or certification is required:

1406 (i) under this title;

1407 (ii) by the department; or

1408 (iii) by an agency or division within the department.

1409 (2) The department may in the course of supervising probationers and parolees:

1410 (a) impose graduated sanctions, as established by the Utah Sentencing Commission  
1411 under Subsection [63M-7-404\(6\)](#), for an individual's violation of one or more terms of the  
1412 probation or parole; and

1413 (b) upon approval by the court or the Board of Pardons and Parole, impose as a  
1414 sanction for an individual's violation of the terms of probation or parole a period of  
1415 incarceration of not more than three consecutive days and not more than a total of five days  
1416 within a period of 30 days.

1417 (3) (a) By following the procedures in Subsection (3)(b), the department may  
1418 investigate the following occurrences at state correctional facilities:

1419 (i) criminal conduct of departmental employees;

1420 (ii) felony crimes resulting in serious bodily injury;

1421 (iii) death of any person; or

1422 (iv) aggravated kidnaping.

1423 (b) [~~Prior to~~] Before investigating any occurrence specified in Subsection (3)(a), the  
1424 department shall:

1425 (i) notify the sheriff or other appropriate law enforcement agency promptly after  
1426 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has  
1427 occurred; and

1428 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to  
1429 conduct an investigation involving an occurrence specified in Subsection (3)(a).

1430 (4) Upon request, the department shall provide copies of investigative reports of  
1431 criminal conduct to the sheriff or other appropriate law enforcement agencies.

1432 [~~(5) The Department of Corrections shall collect accounts receivable ordered by the~~  
1433 ~~district court as a result of prosecution for a criminal offense according to the requirements and~~  
1434 ~~during the time periods established in Subsection 77-18-1(9).]~~

1435 Section 21. Section **64-13-21** is amended to read:

1436 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**  
1437 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**  
1438 **fee.**

1439 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced  
1440 offenders placed in the community on probation by the courts, on parole by the Board of  
1441 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate  
1442 Compact for the Supervision of Parolees and Probationers.

1443 (b) The department shall establish standards for the supervision of offenders in  
1444 accordance with sentencing guidelines and supervision length guidelines, including the  
1445 graduated sanctions matrix, established by the Utah Sentencing Commission, giving priority,  
1446 based on available resources, to felony offenders and offenders sentenced pursuant to  
1447 Subsection 58-37-8(2)(b)(ii).

1448 (2) The department shall apply graduated sanctions established by the Utah Sentencing  
1449 Commission to facilitate a prompt and appropriate response to an individual's violation of the  
1450 terms of probation or parole, including:

1451 (a) sanctions to be used in response to a violation of the terms of probation or parole;  
1452 and

1453 (b) requesting approval from the court or Board of Pardons and Parole to impose a

1454 sanction for an individual's violation of the terms of probation or parole, for a period of  
1455 incarceration of not more than three consecutive days and not more than a total of five days  
1456 within a period of 30 days.

1457 (3) The department shall implement a program of graduated incentives as established  
1458 by the Utah Sentencing Commission to facilitate the department's prompt and appropriate  
1459 response to an offender's:

1460 (a) compliance with the terms of probation or parole; or

1461 (b) positive conduct that exceeds those terms.

1462 (4) (a) The department shall, in collaboration with the Commission on Criminal and  
1463 Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and  
1464 procedures for the collection of information, including cost savings related to recidivism  
1465 reduction and the reduction in the number of inmates, related to the use of the graduated  
1466 sanctions and incentives, and offenders' outcomes.

1467 (b) The collected information shall be provided to the Commission on Criminal and  
1468 Juvenile Justice not less frequently than annually on or before August 31.

1469 (5) Employees of the department who are POST certified as law enforcement officers  
1470 or correctional officers and who are designated as parole and probation officers by the  
1471 executive director have the following duties:

1472 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance  
1473 with the conditions of the parole or probation agreement;

1474 (b) investigating or apprehending any offender who has escaped from the custody of  
1475 the department or absconded from supervision;

1476 (c) supervising any offender during transportation; or

1477 (d) collecting DNA specimens when the specimens are required under Section  
1478 [53-10-404](#).

1479 (6) (a) A monthly supervision fee of \$30 shall be collected from each offender on  
1480 probation or parole. The fee may be suspended or waived by the department upon a showing  
1481 by the offender that imposition would create a substantial hardship or if the offender owes  
1482 restitution to a victim.

1483 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah  
1484 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the



1485 supervision fee and the circumstances under which an offender may request a hearing.

1486 (ii) In determining whether the imposition of the supervision fee would constitute a  
1487 substantial hardship, the department shall consider the financial resources of the offender and  
1488 the burden that the fee would impose, with regard to the offender's other obligations.

1489 (7) (a) For offenders placed on probation under Section [~~77-18-1~~] 77-18-105 or parole  
1490 under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the  
1491 department shall establish a program allowing an offender to earn credits for the offender's  
1492 compliance with the terms of the offender's probation or parole, which shall be applied to  
1493 reducing the period of probation or parole as provided in this Subsection (7).

1494 (b) The program shall provide that an offender earns a reduction credit of 30 days from  
1495 the offender's period of probation or parole for each month the offender completes without any  
1496 violation of the terms of the offender's probation or parole agreement, including the case action  
1497 plan.

1498 (c) The department shall maintain a record of credits earned by an offender under this  
1499 Subsection (7) and shall request from the court or the Board of Pardons and Parole the  
1500 termination of probation or parole not fewer than 30 days prior to the termination date that  
1501 reflects the credits earned under this Subsection (7).

1502 (d) This Subsection (7) does not prohibit the department from requesting a termination  
1503 date earlier than the termination date established by earned credits under Subsection (7)(c).

1504 (e) The court or the Board of Pardons and Parole shall terminate an offender's  
1505 probation or parole upon completion of the period of probation or parole accrued by time  
1506 served and credits earned under this Subsection (7) unless the court or the Board of Pardons  
1507 and Parole finds that termination would interrupt the completion of a necessary treatment  
1508 program, in which case the termination of probation or parole shall occur when the treatment  
1509 program is completed.

1510 (f) The department shall report annually to the Commission on Criminal and Juvenile  
1511 Justice on or before August 31:

1512 (i) the number of offenders who have earned probation or parole credits under this  
1513 Subsection (7) in one or more months of the preceding fiscal year and the percentage of the  
1514 offenders on probation or parole during that time that this number represents;

1515 (ii) the average number of credits earned by those offenders who earned credits;

1516 (iii) the number of offenders who earned credits by county of residence while on  
1517 probation or parole;

1518 (iv) the cost savings associated with sentencing reform programs and practices; and

1519 (v) a description of how the savings will be invested in treatment and

1520 early-intervention programs and practices at the county and state levels.

1521 Section 22. Section ~~64-13-23~~ is amended to read:

1522 **64-13-23. Offender's income and finances.**

1523 (1) The department may require each offender, while in the custody of the department  
1524 or while on probation or parole, to place funds received or earned by ~~him~~ the offender from  
1525 any source into:

1526 (a) an account administered by the department; or ~~into~~

1527 (b) a joint account with the department at a federally insured financial institution.

1528 ~~(1)~~ (2) The department may require each offender to maintain a minimum balance in  
1529 ~~[either or both accounts]~~ an account under Subsection (1) for the particular offender's use upon:

1530 (a) discharge from the custody of the department; or ~~upon~~

1531 (b) completion of parole or probation.

1532 ~~(2)~~ (3) If the funds are placed in a joint account at a federally insured financial  
1533 institution:

1534 (a) any interest accrues to the benefit of the offender account; and

1535 (b) the department may require that the signatures of both the offender and a  
1536 departmental representative be submitted to the financial institution to withdraw funds from the  
1537 account.

1538 ~~(3)~~ (4) If the funds are placed in an account administered by the department, the  
1539 department may by rule designate:

1540 (a) a certain portion of the offender's funds as interest-bearing savings~~;~~; and ~~another~~

1541 (b) a portion of the offender's funds as noninterest-bearing to be used for day-to-day  
1542 expenses.

1543 ~~(4)~~ (5) The department may withhold part of the offender's funds in ~~[either account]~~  
1544 an account under Subsection (1) for expenses of:

1545 (a) ~~[incarceration, supervision,]~~ supervision or treatment;

1546 (b) ~~[court-ordered]~~ restitution, reparation, fines, alimony, support payments, or similar

1547 court-ordered payments;

1548 (c) obtaining the offender's DNA specimen, if the offender is required under Section  
1549 53-10-404 to provide a specimen;

1550 (d) department-ordered [~~restitution~~] repayment of a fine that is incurred under Section  
1551 64-13-33; and

1552 (e) any other debt to the state.

1553 [~~(5)~~] (6) (a) [~~Offenders~~] An offender may not be granted free process in civil actions,  
1554 including petitions for a writ of habeas corpus, if, at any time from the date the cause of action  
1555 arose through the date the cause of action remains pending, there are any funds in [~~either~~  
1556 ~~account which~~] an account under Subsection (1) that have not been withheld or are not subject  
1557 to withholding under Subsection [~~(3) or (4)~~] (4) or (5).

1558 (b) The amount assessed for the filing fee, service of process and other fees and costs  
1559 shall not exceed the total amount of funds the offender has in excess of the indigence threshold  
1560 established by the department but not less than \$25 including the withholdings under  
1561 Subsection [~~(3) or (4)~~] (4) or (5) during the identified period of time.

1562 (c) The amounts assessed shall not exceed the regular fees and costs provided by law.

1563 [~~(6)~~] (7) The department may disclose information on offender accounts to the Office  
1564 of Recovery Services and other appropriate state agencies.

1565 Section 23. Section **64-13-33** is amended to read:

1566 **64-13-33. Fines for violation of department rules -- Debt collection.**

1567 (1) (a) Following an administrative hearing, the department is authorized to:

1568 (i) assess a reasonable fine against the offender for expenses incurred by the  
1569 department as a result of the offender's violation of department rules; and

1570 (ii) require [~~restitution~~] repayment from [an offender for expenses incurred by the  
1571 department as a result of the offender's violation of department rules.] the offender for the fine  
1572 under Subsection (1)(a)(i).

1573 (b) The department is authorized to require payment from the offender's account or to  
1574 place a hold on [~~it~~] the offender's account to secure compliance with this section.

1575 (2) The department shall turn over to the Office of State Debt Collection any debt  
1576 under this section that is unpaid at the time that the offender is released from parole.

1577 Section 24. Section **64-13e-102** is amended to read:

1578 **64-13e-102. Definitions.**

1579 As used in this chapter:

1580 (1) "Actual county daily incarceration rate" means the median amount of jail daily  
1581 incarceration costs based on the data submitted by counties in accordance with Section  
1582 [64-13e-104\(6\)\(b\)](#).

1583 (2) "Actual state daily incarceration rate" means the average daily incarceration rate,  
1584 calculated by the department based on the previous three fiscal years, that reflects the following  
1585 expenses incurred by the department for housing an inmate:

- 1586 (a) executive overhead;
- 1587 (b) administrative overhead;
- 1588 (c) transportation overhead;
- 1589 (d) division overhead; and
- 1590 (e) motor pool expenses.

1591 (3) "Alternative treatment" means:

- 1592 (a) evidence-based cognitive behavioral therapy; or
- 1593 (b) a certificate-based program provided by a Utah technical college, as defined in  
1594 Section [53B-26-102](#).

1595 (4) "Annual inmate jail days" means the total number of state probationary inmates  
1596 housed in a county jail each day for the preceding fiscal year.

1597 (5) "CCJJ" means the Utah Commission on Criminal and Juvenile Justice, created in  
1598 Section [63M-7-201](#).

1599 (6) "Department" means the Department of Corrections.

1600 (7) "Division of Finance" means the Division of Finance, created in Section  
1601 [63A-3-101](#).

1602 (8) "Final county daily incarceration rate" means the amount equal to:

- 1603 (a) the amount appropriated by the Legislature for the purpose of making payments to  
1604 counties under Section [64-13e-104](#); divided by
- 1605 (b) the average annual inmate jail days for the preceding five fiscal years.

1606 (9) "Jail daily incarceration costs" means the following daily costs incurred by a county  
1607 jail for housing a state probationary inmate on behalf of the department:

- 1608 (a) executive overhead;

- 1609 (b) administrative overhead;
- 1610 (c) transportation overhead;
- 1611 (d) division overhead; and
- 1612 (e) motor pool expenses.
- 1613 (10) "State inmate" means an individual, other than a state probationary inmate or state
- 1614 parole inmate, who is committed to the custody of the department.
- 1615 (11) "State parole inmate" means an individual who is:
- 1616 (a) on parole, as defined in Section [77-27-1](#); and
- 1617 (b) housed in a county jail for a reason related to the individual's parole.
- 1618 (12) "State probationary inmate" means a felony probationer sentenced to time in a
- 1619 county jail under Subsection [~~77-18-1(8)~~] [77-18-105\(6\)](#).
- 1620 (13) "Treatment program" means:
- 1621 (a) an alcohol treatment program;
- 1622 (b) a substance abuse treatment program;
- 1623 (c) a sex offender treatment program; or
- 1624 (d) an alternative treatment program.
- 1625 Section 25. Section **75-7-503** is amended to read:
- 1626 **75-7-503. Exceptions to spendthrift provision.**
- 1627 (1) As used in this section:
- 1628 (a) "Child" includes any person for whom an order or judgment for child support has
- 1629 been entered in this or another state.
- 1630 (b) "Civil accounts receivable" means the same as that term is defined in Section
- 1631 [77-32b-102](#).
- 1632 (c) "Civil restitution of judgment" means the same as that term is defined in Section
- 1633 [77-32b-102](#).
- 1634 [~~(b)~~] (d) "Restitution" means the same as that term is defined in Section [~~77-38a-102~~]
- 1635 [77-38b-102](#).
- 1636 [~~(c)~~] (e) "Victim" means the same as that term is defined in Section [~~77-38a-102~~]
- 1637 [77-38b-102](#).
- 1638 (2) Even if a trust contains a spendthrift provision, the following persons may obtain
- 1639 [~~from a court an order attaching~~] an order from a court that attaches present or future

1640 distributions to the beneficiary:

1641 (a) a beneficiary's child who has a judgment or court order against the beneficiary for  
1642 support or maintenance;

1643 (b) a judgment creditor who has provided services for the protection of a beneficiary's  
1644 interest in the trust; ~~or~~

1645 (c) a victim who has a judgment requiring the beneficiary to pay restitution in  
1646 accordance with Title 77, ~~[Chapter 38a,]~~ Chapter 38b, Crime Victims Restitution Act, or  
1647 similar provision in another state~~[-];~~ or

1648 (d) the Office of State Debt Collection, created in Section 63A-3-502, for collecting  
1649 payment on a civil accounts receivable or a civil judgment of restitution.

1650 (3) A spendthrift provision is unenforceable against a claim of this state or the United  
1651 States to the extent a statute of this state or federal law so provides.

1652 Section 26. Section **76-2-404** is amended to read:

1653 **76-2-404. Peace officer's use of deadly force.**

1654 (1) A peace officer, or any person acting by the officer's command in providing aid and  
1655 assistance, is justified in using deadly force when:

1656 (a) the officer is acting in obedience to and in accordance with the judgment of a  
1657 competent court in executing a penalty of death under Subsection ~~[77-18-5.5]~~ 77-18-113(2),  
1658 (3), or (4);

1659 (b) effecting an arrest or preventing an escape from custody following an arrest, where  
1660 the officer reasonably believes that deadly force is necessary to prevent the arrest from being  
1661 defeated by escape; and

1662 (i) the officer has probable cause to believe that the suspect has committed a felony  
1663 offense involving the infliction or threatened infliction of death or serious bodily injury; or

1664 (ii) the officer has probable cause to believe the suspect poses a threat of death or  
1665 serious bodily injury to the officer or to others if apprehension is delayed; or

1666 (c) the officer reasonably believes that the use of deadly force is necessary to prevent  
1667 death or serious bodily injury to the officer or another person.

1668 (2) If feasible, a verbal warning should be given by the officer prior to any use of  
1669 deadly force under Subsection (1)(b) or (1)(c).

1670 Section 27. Section **76-3-201** is repealed and reenacted to read:

1671 76-3-201. Sentences or combination of sentences allowed -- Restitution and other  
1672 costs -- Civil penalties.  
1673 (1) As used in this section:  
1674 (a) (i) "Convicted" means:  
1675 (A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a  
1676 mental illness; or  
1677 (B) having received a judgment of guilty or a judgment of guilty with a mental illness.  
1678 (ii) "Convicted" does not include an adjudication of an offense under Section  
1679 78A-6-117.  
1680 (b) "Restitution" means the same as that term is defined in Section 77-38b-102.  
1681 (2) Within the limits provided by this chapter, a court may sentence an individual  
1682 convicted of an offense to any one of the following sentences, or combination of the following  
1683 sentences:  
1684 (a) to pay a fine;  
1685 (b) to removal or disqualification from public or private office;  
1686 (c) except as otherwise provided by law, to probation in accordance with Section  
1687 77-18-105;  
1688 (d) on or after April 27, 1992, to life in prison without parole; or  
1689 (e) to death.  
1690 (3) (a) This chapter does not deprive a court of authority conferred by law:  
1691 (i) to forfeit property;  
1692 (ii) to dissolve a corporation;  
1693 (iii) to suspend or cancel a license;  
1694 (iv) to permit removal of an individual from office;  
1695 (v) to cite for contempt; or  
1696 (vi) to impose any other civil penalty.  
1697 (b) A court may include a civil penalty in a sentence.  
1698 (4) In addition to any other sentence that a sentencing court may impose, the court shall  
1699 order an individual to:  
1700 (a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victim Restitution  
1701 Act;

1702 (b) subject to Subsection (5) and Section 77-32b-104, pay the cost of any government  
1703 transportation if the individual was:

1704 (i) transported, in accordance with a court order, from one county to another county  
1705 within the state;

1706 (ii) charged with a felony or a misdemeanor; and

1707 (iii) convicted of an offense;

1708 (c) subject to Section 77-32b-104, pay the cost expended by an appropriate  
1709 governmental entity under Section 77-30-24 for the extradition of the individual if the  
1710 individual:

1711 (i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve  
1712 pending criminal charges; and

1713 (ii) is convicted of an offense in the county for which the individual is returned;

1714 (d) subject to Subsection (6) and Subsections 77-32b-104(2), (3), and (4), pay the cost  
1715 of medical care, treatment, hospitalization, and related transportation, as described in Section  
1716 17-50-319, that is provided by a county to the individual while the individual is in a county  
1717 correctional facility before and after sentencing if:

1718 (i) the individual is convicted of an offense that results in incarceration in the county  
1719 correctional facility; and

1720 (ii) (A) the individual is not a state prisoner housed in the county correctional facility  
1721 through a contract with the Department of Corrections; or

1722 (B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104  
1723 if the individual is a state probationary inmate or a state parole inmate; and

1724 (e) pay any other cost that the court determines is appropriate under Section  
1725 77-32b-104.

1726 (5) (a) The court may not order an individual to pay the costs of government  
1727 transportation under Subsection (4)(b) if:

1728 (i) the individual is charged with an infraction or a warrant is issued for an infraction  
1729 on a subsequent failure to appear; or

1730 (ii) the individual was not transported in accordance with a court order.

1731 (b) (i) The cost of governmental transportation under Subsection (4)(b) shall be  
1732 calculated according to the following schedule:



- 1733 (A) \$100 for up to 100 miles that an individual is transported;  
 1734 (B) \$200 for 100 miles to 200 miles that an individual is transported; and  
 1735 (C) \$350 for 200 miles or more that an individual is transported.

1736 (ii) The schedule under Subsection (5)(b)(i) applies to each individual transported  
 1737 regardless of the number of individuals transported in a single trip.

1738 (6) The cost of medical care under Subsection (4)(d) does not include expenses  
 1739 incurred by the county correctional facility in providing reasonable accommodation for an  
 1740 inmate qualifying as an individual with a disability as defined and covered by the Americans  
 1741 with Disabilities Act, 42 U.S.C. 12101 through 12213, including medical and mental health  
 1742 treatment for the inmate's disability.

1743 Section 28. Section **76-3-208** is amended to read:

1744 **76-3-208. Imprisonment -- Custodial authorities.**

1745 (1) Persons sentenced to imprisonment shall be committed to the following custodial  
 1746 authorities:

1747 (a) felony commitments shall be to the Utah State Prison;

1748 (b) (i) notwithstanding Section [76-3-204](#), class A misdemeanor commitments shall be  
 1749 to the jail, or other facility designated by the town, city, or county where the defendant was  
 1750 convicted, unless the defendant is also serving a felony commitment at the Utah State Prison at  
 1751 the commencement of the class A misdemeanor conviction, in which case, the class A  
 1752 misdemeanor commitment shall be to the Utah State Prison for an indeterminate term not to  
 1753 exceed one year with a credit for one day; and

1754 (ii) the court may not order the imprisonment of a defendant to the Utah State Prison  
 1755 for a fixed term or other term that is inconsistent with this section and Section ~~[77-18-4]~~  
 1756 [77-18-111](#); and

1757 (c) all other misdemeanor commitments shall be to the jail or other facility designated  
 1758 by the town, city or county where the defendant was convicted.

1759 (2) ~~[Custodial authorities]~~ A custodial authority may place a prisoner in a facility other  
 1760 than the one to which the prisoner was committed when:

1761 (a) ~~[it]~~ the custodial authority does not have space to accommodate the prisoner; or

1762 (b) the security of the institution or ~~[inmate requires it.]~~ prisoner requires the prisoner  
 1763 to be placed in a facility other than the one to which the prisoner was committed.

1764 Section 29. Section **76-3-301.5** is amended to read:

1765 **76-3-301.5. Uniform fine schedule -- Judicial Council.**

1766 (1) The Judicial Council shall establish a uniform recommended fine schedule for each  
1767 offense under Subsection [76-3-301\(1\)](#).

1768 (a) The fine for each offense shall proportionally reflect the seriousness of the offense  
1769 and other factors as determined in writing by the Judicial Council.

1770 (b) The schedule shall be reviewed annually by the Judicial Council.

1771 (c) The fines shall be collected [~~under Section [77-18-1](#).~~] as part of a criminal accounts  
1772 receivable, as defined in Section [77-32b-102](#), that is established under Section [77-32b-103](#).

1773 (2) The schedule shall incorporate:

1774 (a) criteria for determining aggravating and mitigating circumstances; and

1775 (b) guidelines for enhancement or reduction of the fine, based on aggravating or  
1776 mitigating circumstances.

1777 (3) Presentence investigation reports shall include documentation of aggravating and  
1778 mitigating circumstances as determined under the criteria, and a recommended fine under the  
1779 schedule.

1780 (4) The Judicial Council shall also establish a separate uniform recommended fine  
1781 schedule for the juvenile court and by rule provide for its implementation.

1782 (5) This section does not prohibit the court from in its discretion imposing no fine, or a  
1783 fine in any amount up to and including the maximum fine, for the offense.

1784 Section 30. Section **76-3-406** is amended to read:

1785 **76-3-406. Crimes for which probation, suspension of sentence, lower category of**  
1786 **offense, or hospitalization may not be granted.**

1787 (1) Notwithstanding Sections [76-3-201](#) and [~~77-18-1~~] [77-18-105](#) and Title 77, Chapter  
1788 16a, Commitment and Treatment of Persons with a Mental Illness, except as provided in  
1789 Section [76-5-406.5](#), probation may not be granted, the execution or imposition of sentence may  
1790 not be suspended, the court may not enter a judgment for a lower category of offense, and  
1791 hospitalization may not be ordered, the effect of which would in any way shorten the prison  
1792 sentence for an individual who commits a capital felony or a first degree felony involving:

1793 (a) Section [76-5-202](#), aggravated murder;

1794 (b) Section [76-5-203](#), murder;

- 1795 (c) Section 76-5-301.1, child kidnaping;
- 1796 (d) Section 76-5-302, aggravated kidnaping;
- 1797 (e) Section 76-5-402, rape, if the individual is sentenced under Subsection
- 1798 76-5-402(3)(b), (3)(c), or (4);
- 1799 (f) Section 76-5-402.1, rape of a child;
- 1800 (g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection
- 1801 76-5-402.2(1)(b), (1)(c), or (2);
- 1802 (h) Section 76-5-402.3, object rape of a child;
- 1803 (i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection
- 1804 76-5-403(3)(b), (3)(c), or (4);
- 1805 (j) Section 76-5-403.1, sodomy on a child;
- 1806 (k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under
- 1807 Subsection 76-5-404(2)(b) or (3);
- 1808 (l) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;
- 1809 (m) Section 76-5-405, aggravated sexual assault; or
- 1810 (n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).
- 1811 (2) Except for an offense before the district court in accordance with Section
- 1812 78A-6-703.2 or 78A-6-703.5, the provisions of this section do not apply if the sentencing court
- 1813 finds that the defendant:
- 1814 (a) was under 18 years old at the time of the offense; and
- 1815 (b) could have been adjudicated in the juvenile court but for the delayed reporting or
- 1816 delayed filing of the information.
- 1817 Section 31. Section 76-6-107.1 is amended to read:
- 1818 **76-6-107.1. Compensatory service -- Graffiti penalties.**
- 1819 (1) If an offender uses graffiti and is convicted under Section 76-6-106 or 76-6-206 for
- 1820 ~~[its use]~~ the use of graffiti, the court may, as a condition of probation under Subsection
- 1821 ~~[77-18-1(8)]~~ 77-18-105(6), order the offender to clean up graffiti of ~~[his own]~~ the offender and
- 1822 any other at a time and place within the jurisdiction of the court.
- 1823 (a) For a first conviction or adjudication, the court may require the offender to clean up
- 1824 graffiti for not less than eight hours.
- 1825 (b) For a second conviction or adjudication, the court may require the offender to clean

1826 up graffiti for not less than 16 hours.

1827 (c) For a third conviction or adjudication, the court may require the offender to clean  
1828 up graffiti for not less than 24 hours.

1829 (2) The offender convicted under Section 76-6-106, 76-6-206, or 76-6-107 shall be  
1830 responsible for removal costs as determined under Section 76-6-107, unless waived by the  
1831 court for good cause.

1832 (3) The court may also require the offender to perform other alternative forms of  
1833 restitution or repair to the damaged property [~~pursuant to Subsection 77-18-1(8).~~] in  
1834 accordance with Subsection 77-18-105(6).

1835 Section 32. Section 76-6-111 is amended to read:

1836 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**  
1837 **Seizure and disposition of property.**

1838 (1) As used in this section:

1839 (a) "Law enforcement officer" means the same as that term is defined in Section  
1840 53-13-103.

1841 (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit,  
1842 including:

1843 (i) cattle;

1844 (ii) sheep;

1845 (iii) goats;

1846 (iv) swine;

1847 (v) horses;

1848 (vi) mules;

1849 (vii) poultry; and

1850 (viii) domesticated elk as defined in Section 4-39-102.

1851 (2) Unless authorized by Section 4-25-201, 4-25-202, 4-25-401, 4-39-401, or 18-1-3, a  
1852 person is guilty of wanton destruction of livestock if that person:

1853 (a) injures, physically alters, releases, or causes the death of livestock; and

1854 (b) does so:

1855 (i) intentionally or knowingly; and

1856 (ii) without the permission of the owner of the livestock.

- 1857 (3) Wanton destruction of livestock is punishable as a:
- 1858 (a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;
- 1859 (b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but
- 1860 does not exceed \$1,500;
- 1861 (c) third degree felony if the aggregate value of the livestock is more than \$1,500, but
- 1862 does not exceed \$5,000; and
- 1863 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.
- 1864 (4) When a court orders a person who is convicted of wanton destruction of livestock
- 1865 to pay restitution under Title 77, Chapter ~~[38a]~~ 38b, Crime Victims Restitution Act, the court
- 1866 shall consider~~[- in addition to the restitution criteria in Section ~~77-38a-302~~, the restitution~~
- 1867 ~~guidelines in Subsection (5) when setting the amount.]~~ the restitution guidelines in Subsection
- 1868 (5) when setting the amount of restitution under Section ~~77-38a-302~~ 77-38b-205.
- 1869 (5) The minimum restitution value for cattle and sheep is the sum of the following,
- 1870 unless the court states on the record why it finds the sum to be inappropriate:
- 1871 (a) the fair market value of the animal, using as a guide the market information
- 1872 obtained from the Department of Agriculture and Food created under Section 4-2-102; and
- 1873 (b) 10 years times the average annual value of offspring, for which average annual
- 1874 value is determined using data obtained from the National Agricultural Statistics Service within
- 1875 the United States Department of Agriculture, for the most recent 10-year period available.
- 1876 (6) A material, device, or vehicle used in violation of Subsection (2) is subject to
- 1877 forfeiture under the procedures and substantive protections established in Title 24, Forfeiture
- 1878 and Disposition of Property Act.
- 1879 (7) A peace officer may seize a material, device, or vehicle used in violation of
- 1880 Subsection (2):
- 1881 (a) upon notice and service of process issued by a court having jurisdiction over the
- 1882 property; or
- 1883 (b) without notice and service of process if:
- 1884 (i) the seizure is incident to an arrest under:
- 1885 (A) a search warrant; or
- 1886 (B) an inspection under an administrative inspection warrant;
- 1887 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of

1888 the state in a criminal injunction or forfeiture proceeding under this section; or  
1889 (iii) the peace officer has probable cause to believe that the property has been used in  
1890 violation of Subsection (2).

1891 (8) (a) A material, device, or vehicle seized under this section is not repleviable but is  
1892 in custody of the law enforcement agency making the seizure, subject only to the orders and  
1893 decrees of a court or official having jurisdiction.

1894 (b) A peace officer who seizes a material, device, or vehicle under this section may:

1895 (i) place the property under seal;

1896 (ii) remove the property to a place designated by the warrant under which it was seized;

1897 or

1898 (iii) take custody of the property and remove it to an appropriate location for  
1899 disposition in accordance with law.

1900 Section 33. Section **76-6-206.2** is amended to read:

1901 **76-6-206.2. Criminal trespass on state park lands -- Penalties.**

1902 (1) [~~For purposes of this section~~] As used in this section:

1903 (a) "Authorization" means specific written permission by, or contractual agreement  
1904 with, the Division of Parks and Recreation.

1905 (b) "Criminal trespass" means the elements of the crime of criminal trespass, as set  
1906 forth in Section [76-6-206](#).

1907 (c) "Division" means the Division of Parks and Recreation[;] created in Section  
1908 [79-4-201](#).

1909 (d) "State park lands" means all lands administered by the division.

1910 (2) A person is guilty of criminal trespass on state park lands and is liable for the civil  
1911 damages prescribed in Subsection (5) if, under circumstances not amounting to a greater  
1912 offense, and without authorization, the person:

1913 (a) constructs improvements or structures on state park lands;

1914 (b) uses or occupies state park lands for more than 30 days after the cancellation or  
1915 expiration of authorization;

1916 (c) knowingly or intentionally uses state park lands for commercial gain;

1917 (d) intentionally or knowingly grazes livestock on state park lands, except as provided  
1918 in Section [72-3-112](#); or

1919 (e) remains, after being ordered to leave by someone with actual authority to act for the  
1920 division, or by a law enforcement officer.

1921 (3) A person is not guilty of criminal trespass if that person enters onto state park  
1922 lands:

1923 (a) without first paying the required fee; and

1924 (b) for the sole purpose of pursuing recreational activity.

1925 (4) A violation of Subsection (2) is a class B misdemeanor.

1926 (5) In addition to ~~[restitution, as provided in Section 76-3-201]~~ an order for restitution  
1927 under Section 77-38b-205, a person who commits any act described in Subsection (2) may also  
1928 be liable for civil damages in the amount of three times the value of:

1929 (a) damages resulting from a violation of Subsection (2);

1930 (b) the water, mineral, vegetation, improvement, or structure on state park lands that is  
1931 removed, destroyed, used, or consumed without authorization;

1932 (c) the historical, prehistorical, archaeological, or paleontological resource on state  
1933 park lands that is removed, destroyed, used, or consumed without authorization; or

1934 (d) the consideration which would have been charged by the division for unauthorized  
1935 use of the land and resources during the period of trespass.

1936 (6) Civil damages under Subsection (5) may be collected in a separate action by the  
1937 division, and shall be deposited in the State Parks Fees Restricted Account as established in  
1938 Section 79-4-402.

1939 Section 34. Section 76-6-206.3 is amended to read:

1940 **76-6-206.3. Criminal trespass on agricultural land or range land.**

1941 (1) As used in this section:

1942 (a) "Agricultural or range land" and "land" mean land as defined under Subsections  
1943 (1)(d) and (e).

1944 (b) "Authorization" means specific written permission by, or contractual agreement  
1945 with, the owner or manager of the property.

1946 (c) "Criminal trespass" means the elements of the crime of criminal trespass under  
1947 Section 76-6-206.

1948 (d) "Land in agricultural use" has the same meaning as in Section 59-2-502.

1949 (e) "Range land" means privately owned land that is not fenced or divided into lots and

1950 that is generally unimproved. This land includes land used for livestock.

1951 (2) A person is guilty of the class B misdemeanor criminal offense of criminal trespass  
1952 on agricultural or range land and is liable for the civil damages under Subsection (5) if, under  
1953 circumstances not amounting to a greater offense, and without authorization or a right under  
1954 state law, the person enters or remains on agricultural or range land regarding which notice  
1955 prohibiting entry is given by:

1956 (a) personal communication to the person by the owner of the land, an employee of the  
1957 owner, or a person with apparent authority to act for the owner;

1958 (b) fencing or other form of enclosure a reasonable person would recognize as intended  
1959 to exclude intruders; or

1960 (c) posted signs or markers that would reasonably be expected to be seen by persons in  
1961 the area of the borders of the land.

1962 (3) A person is guilty of the class B misdemeanor criminal offense of cutting,  
1963 destroying, or rendering ineffective the fencing of agricultural or range land if the person  
1964 willfully cuts, destroys, or renders ineffective any fencing as described under Subsection (2)(b).

1965 (4) In addition to [~~restitution, as provided in Section 76-3-201~~] an order for restitution  
1966 under Section 77-38b-205, a person who commits any violation of Subsection (2) or (3) may  
1967 also be liable for:

1968 (a) statutory damages in the amount of the value of damages resulting from the  
1969 violation of Subsection (2) or \$500, whichever is greater; and

1970 (b) reasonable attorney fees not to exceed \$250, and court costs.

1971 (5) Civil damages under Subsection (4) may be collected in a separate action by the  
1972 owner of the agricultural or range land or the owner's assignee.

1973 Section 35. Section **76-6-1102** is amended to read:

1974 **76-6-1102. Identity fraud crime.**

1975 (1) As used in this part[~~,"personal~~]:

1976 (a) "Personal identifying information" may include:

1977 [~~(a)~~] (i) name;

1978 [~~(b)~~] (ii) birth date;

1979 [~~(c)~~] (iii) address;

1980 [~~(d)~~] (iv) telephone number;



1981            [~~(e)~~] (v) drivers license number;

1982            [~~(f)~~] (vi) Social Security number;

1983            [~~(g)~~] (vii) place of employment;

1984            [~~(h)~~] (viii) employee identification numbers or other personal identification numbers;

1985            [~~(i)~~] (ix) mother's maiden name;

1986            [~~(j)~~] (x) electronic identification numbers;

1987            [~~(k)~~] (xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic

1988    Transactions Act;

1989            [~~(l)~~] (xii) any other numbers or information that can be used to access a person's

1990    financial resources or medical information, except for numbers or information that can be

1991    prosecuted as financial transaction card offenses under Sections [76-6-506](#) through [76-6-506.6](#);

1992    or

1993            [~~(m)~~] (xiii) a photograph or any other realistic likeness.

1994            (b) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

1995            (2) (a) A person is guilty of identity fraud when that person knowingly or intentionally

1996    uses, or attempts to use, the personal identifying information of another person, whether that

1997    person is alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain,

1998    credit, goods, services, employment, any other thing of value, or medical information.

1999            (b) It is not a defense to a violation of Subsection (2)(a) that the person did not know

2000    that the personal information belonged to another person.

2001            (3) Identity fraud is:

2002            (a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the

2003    credit, goods, services, employment, or any other thing of value is less than \$5,000; or

2004            (b) a second degree felony if:

2005            (i) the value of the credit, goods, services, employment, or any other thing of value is

2006    or exceeds \$5,000; or

2007            (ii) the use described in Subsection (2)(a) of personal identifying information results,

2008    directly or indirectly, in bodily injury to another person.

2009            (4) Multiple violations may be aggregated into a single offense, and the degree of the

2010    offense is determined by the total value of all credit, goods, services, or any other thing of

2011    value used, or attempted to be used, through the multiple violations.

2012 (5) When a defendant is convicted of a violation of this section, the court shall order  
2013 the defendant to [~~make restitution to any victim of the offense or state on the record the reason~~  
2014 ~~the court does not find ordering restitution to be appropriate~~] pay restitution in accordance with  
2015 Title 77, Chapter 38b, Crime Victims Restitution Act.

2016 (6) Restitution under Subsection (5) may include:

2017 (a) payment for any costs incurred, including attorney fees, lost wages, and  
2018 replacement of checks; and

2019 (b) the value of the victim's time incurred due to the offense:

2020 (i) in clearing the victim's credit history or credit rating;

2021 (ii) in any civil or administrative proceedings necessary to satisfy or resolve any debt,  
2022 lien, or other obligation of the victim or imputed to the victim and arising from the offense; and

2023 (iii) in attempting to remedy any other intended or actual harm to the victim incurred as  
2024 a result of the offense.

2025 Section 36. Section **76-6-1105** is amended to read:

2026 **76-6-1105. Unlawful possession of another's identification documents.**

2027 (1) As used in this section:

2028 (a) (i) "Identifying document" means:

2029 (A) a government issued document commonly used for identification;

2030 (B) a vehicle registration certificate; or

2031 (C) any other document, image, data file, or medium containing personal identifying  
2032 information as defined in Subsections ~~76-6-1102~~~~(1)(b) through (m)]~~ (1)(a)(ii) through (xiii).

2033 (ii) "Identifying document" includes:

2034 (A) a counterfeit identifying document; or

2035 (B) a document containing personal identifying information of a deceased individual.

2036 (b) "Possess" means to have physical control or electronic access.

2037 (2) (a) Under circumstances that do not constitute a violation of Section ~~76-6-1102~~ or  
2038 Section ~~76-6-502~~, an individual is guilty of a class A misdemeanor if the individual:

2039 (i) obtains or possesses an identifying document:

2040 (A) with knowledge that the individual is not entitled to obtain or possess the  
2041 identifying document; or

2042 (B) with intent to deceive or defraud; or

2043 (ii) assists another person in obtaining or possessing an identifying document:  
2044 (A) with knowledge that the person is not entitled to obtain or possess the identifying  
2045 document; or  
2046 (B) with knowledge that the person intends to use the identifying document to deceive  
2047 or defraud.  
2048 (b) Under circumstances that do not constitute a violation of Section 76-6-1102, an  
2049 individual is guilty of a third degree felony if the individual:  
2050 (i) obtains or possesses identifying documents of more than two, but fewer than 100,  
2051 individuals:  
2052 (A) with knowledge that the individual is not entitled to obtain or possess the  
2053 identifying documents; or  
2054 (B) with intent to deceive or defraud; or  
2055 (ii) assists another person in obtaining or possessing identifying documents of more  
2056 than two, but fewer than 100, individuals:  
2057 (A) with knowledge that the person is not entitled to obtain or possess the multiple  
2058 identifying documents; or  
2059 (B) with knowledge that the person intends to use the identifying documents to deceive  
2060 or defraud.  
2061 (c) Under circumstances that do not constitute a violation of Section 76-6-1102, an  
2062 individual is guilty of a second degree felony if the individual:  
2063 (i) obtains or possesses identifying documents of 100 or more individuals:  
2064 (A) with knowledge that the individual is not entitled to obtain or possess the  
2065 identifying documents; or  
2066 (B) with intent to deceive or defraud; or  
2067 (ii) assists another person in obtaining or possessing identifying documents of 100 or  
2068 more individuals:  
2069 (A) with knowledge that the person is not entitled to obtain or possess the identifying  
2070 documents; or  
2071 (B) with knowledge that the person intends to use the identifying documents to deceive  
2072 or defraud.  
2073 Section 37. Section 76-10-1204 is amended to read:

2074           **76-10-1204. Distributing pornographic material -- Penalties -- Exemptions for**  
2075 **Internet service providers and hosting companies.**

2076           (1) A person is guilty of distributing pornographic material when the person  
2077 knowingly:

2078           (a) sends or brings any pornographic material into the state with intent to distribute or  
2079 exhibit it to others;

2080           (b) prepares, publishes, prints, or possesses any pornographic material with intent to  
2081 distribute or exhibit it to others;

2082           (c) distributes or offers to distribute, or exhibits or offers to exhibit, any pornographic  
2083 material to others;

2084           (d) writes, creates, or solicits the publication or advertising of pornographic material;

2085           (e) promotes the distribution or exhibition of material the person represents to be  
2086 pornographic; or

2087           (f) presents or directs a pornographic performance in any public place or any place  
2088 exposed to public view or participates in that portion of the performance which makes it  
2089 pornographic.

2090           (2) Each distributing of pornographic material as defined in Subsection (1) is a separate  
2091 offense.

2092           (3) It is a separate offense under this section for:

2093           (a) each day's exhibition of any pornographic motion picture film; and

2094           (b) each day in which any pornographic publication is displayed or exhibited in a  
2095 public place with intent to distribute or exhibit it to others.

2096           (4) (a) An offense under this section committed by a person 18 years [~~of age~~] old or  
2097 older is a third degree felony punishable by:

2098           (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article  
2099 exhibited up to the maximum allowed by law; and

2100           (ii) incarceration, without suspension of sentence in any way, for a term of not less than  
2101 30 days.

2102           (b) An offense under this section committed by a person 16 or 17 years [~~of age~~] old is a  
2103 class A misdemeanor.

2104           (c) An offense under this section committed by a person younger than 16 years [~~of age~~]

2105 old is a class B misdemeanor.

2106 (d) Subsection (4)(a) supersedes Section [~~77-18-1~~] [77-18-105](#).

2107 (5) A person 18 years [~~of age~~] old or older who knowingly solicits, requests,  
2108 commands, encourages, or intentionally aids another person younger than 18 years [~~of age~~] old  
2109 to engage in conduct prohibited under Subsection (1), (2), or (3) is guilty of a third degree  
2110 felony and is subject to the penalties under Subsection (4)(a).

2111 (6) (a) This section does not apply to an Internet service provider, as defined in Section  
2112 [76-10-1230](#), if:

2113 (i) the distribution of pornographic material by the Internet service provider occurs  
2114 only incidentally through the Internet service provider's function of:

2115 (A) transmitting or routing data from one person to another person; or

2116 (B) providing a connection between one person and another person;

2117 (ii) the Internet service provider does not intentionally aid or abet in the distribution of  
2118 the pornographic material; and

2119 (iii) the Internet service provider does not knowingly receive funds from or through a  
2120 person who distributes the pornographic material in exchange for permitting the person to  
2121 distribute the pornographic material.

2122 (b) This section does not apply to a hosting company, as defined in Section  
2123 [76-10-1230](#), if:

2124 (i) the distribution of pornographic material by the hosting company occurs only  
2125 incidentally through the hosting company's function of providing data storage space or data  
2126 caching to a person;

2127 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution  
2128 of the pornographic material; and

2129 (iii) the hosting company does not knowingly receive funds from or through a person  
2130 who distributes the pornographic material in exchange for permitting the person to distribute,  
2131 store, or cache the pornographic material.

2132 Section 38. Section **76-10-1205** is amended to read:

2133 **76-10-1205. Inducing acceptance of pornographic material -- Exemptions for**  
2134 **Internet service providers and hosting companies.**

2135 (1) A person is guilty of inducing acceptance of pornographic material when he

2136 knowingly:

2137 (a) requires or demands as a condition to a sale, allocation, consignment, or delivery  
2138 for resale of any newspaper, magazine, periodical, book, publication, or other merchandise that  
2139 the purchaser or consignee receive any pornographic material or material reasonably believed  
2140 by the purchaser or consignee to be pornographic; or

2141 (b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any  
2142 penalty, financial or otherwise, because of the failure or refusal to accept pornographic material  
2143 or material reasonably believed by the purchaser or consignee to be pornographic.

2144 (2) (a) An offense under this section is a third degree felony punishable by:

2145 (i) a minimum mandatory fine of not less than \$1,000 plus \$10 for each article  
2146 exhibited up to the maximum allowed by law; and

2147 (ii) incarceration, without suspension of sentence in any way, for a term of not less than  
2148 30 days.

2149 (b) This Subsection (2) supersedes Section [~~77-18-1~~] [77-18-105](#).

2150 (3) (a) This section does not apply to an Internet service provider, as defined in Section  
2151 [76-10-1230](#), if:

2152 (i) the distribution of pornographic material by the Internet service provider occurs  
2153 only incidentally through the Internet service provider's function of:

2154 (A) transmitting or routing data from one person to another person; or

2155 (B) providing a connection between one person and another person;

2156 (ii) the Internet service provider does not intentionally aid or abet in the distribution of  
2157 the pornographic material; and

2158 (iii) the Internet service provider does not knowingly receive funds from or through a  
2159 person who distributes the pornographic material in exchange for permitting the person to  
2160 distribute the pornographic material.

2161 (b) This section does not apply to a hosting company, as defined in Section  
2162 [76-10-1230](#), if:

2163 (i) the distribution of pornographic material by the hosting company occurs only  
2164 incidentally through the hosting company's function of providing data storage space or data  
2165 caching to a person;

2166 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution

2167 of the pornographic material; and

2168 (iii) the hosting company does not knowingly receive funds from or through a person  
2169 who distributes the pornographic material in exchange for permitting the person to distribute,  
2170 store, or cache the pornographic material.

2171 Section 39. Section **76-10-1206** is amended to read:

2172 **76-10-1206. Dealing in material harmful to a minor -- Penalties -- Exemptions for**  
2173 **Internet service providers and hosting companies.**

2174 (1) A person is guilty of dealing in material harmful to minors when, knowing or  
2175 believing that an individual is a minor, or having negligently failed to determine the proper age  
2176 of a minor, the person intentionally:

2177 (a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or an  
2178 individual whom the person believes to be a minor, any material harmful to minors;

2179 (b) produces, performs, or directs any performance, before a minor or an individual  
2180 whom the person believes to be a minor, that is harmful to minors; or

2181 (c) participates in any performance, before a minor or an individual whom the person  
2182 believes to be a minor, that is harmful to minors.

2183 (2) (a) Except as provided in Subsection (2)(b), each separate offense under this section  
2184 committed by a person 18 years [~~of age~~] old or older is a third degree felony punishable by:

2185 (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article  
2186 exhibited up to the maximum allowed by law; and

2187 (ii) incarceration, without suspension of sentence, for a term of not less than 14 days.

2188 (b) Each separate offense under this section committed by a person 18 years [~~of age~~]  
2189 old or older against a minor 16 years [~~of age~~] old or older, but younger than 18 years [~~of age~~]  
2190 old, is a class A misdemeanor if the person is less than seven years older than the minor at the  
2191 time of the offense.

2192 (c) Each separate offense under this section committed by a person 16 or 17 years [~~of~~  
2193 ~~age~~] old is a class A misdemeanor.

2194 (d) Each separate offense under this section committed by a person younger than 16  
2195 years [~~of age~~] old is a class B misdemeanor.

2196 (e) Subsection (2)(a) supersedes Section [~~77-18-1~~] 77-18-105.

2197 (3) (a) Except for a defendant described in Subsection (2)(b), if a defendant 18 years [~~of~~

2198 ~~age]~~ old or older has been previously convicted or adjudicated [~~to be under the jurisdiction of]~~  
2199 by the juvenile court under this section, each separate subsequent offense is a second degree  
2200 felony punishable by:

2201 (i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article  
2202 exhibited up to the maximum allowed by law; and

2203 (ii) incarceration, without suspension of sentence, for a term of not less than one year.

2204 (b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years  
2205 [~~of age]~~ old has been previously convicted or adjudicated [~~to be under the jurisdiction of]~~ by  
2206 the juvenile court under this section, each separate subsequent offense is a third degree felony.

2207 (c) Subsection (3)(a) supersedes Section [~~77-18-1~~] 77-18-105.

2208 (d) (i) This section does not apply to an Internet service provider, as defined in Section  
2209 76-10-1230, a provider of an electronic communications service as defined in 18 U.S.C. Sec.  
2210 2510, a telecommunications service, information service, or mobile service as defined in 47  
2211 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or  
2212 a cable operator as defined in 47 U.S.C. Sec. 522, if:

2213 (A) the distribution of pornographic material by the Internet service provider occurs  
2214 only incidentally through the provider's function of:

2215 (I) transmitting or routing data from one person to another person; or

2216 (II) providing a connection between one person and another person;

2217 (B) the provider does not intentionally aid or abet in the distribution of the  
2218 pornographic material; and

2219 (C) the provider does not knowingly receive from or through a person who distributes  
2220 the pornographic material a fee greater than the fee generally charged by the provider, as a  
2221 specific condition for permitting the person to distribute the pornographic material.

2222 (ii) This section does not apply to a hosting company, as defined in Section  
2223 76-10-1230, if:

2224 (A) the distribution of pornographic material by the hosting company occurs only  
2225 incidentally through the hosting company's function of providing data storage space or data  
2226 caching to a person;

2227 (B) the hosting company does not intentionally engage, aid, or abet in the distribution  
2228 of the pornographic material; and



2229 (C) the hosting company does not knowingly receive from or through a person who  
2230 distributes the pornographic material a fee greater than the fee generally charged by the  
2231 provider, as a specific condition for permitting the person to distribute, store, or cache the  
2232 pornographic material.

2233 (4) A service provider, as defined in Section [76-10-1230](#), is not negligent under this  
2234 section if the service provider complies with Section [76-10-1231](#).

2235 (5) A person 18 years ~~[of age]~~ old or older who knowingly solicits, requests,  
2236 commands, encourages, or intentionally aids another person younger than 18 years ~~[of age]~~ old  
2237 to engage in conduct in violation of Subsection (1) is guilty of a third degree felony and is  
2238 subject to the penalties under Subsection (2)(a).

2239 Section 40. Section **76-10-1214** is amended to read:

2240 **76-10-1214. Conspiracy an offense -- Punishment.**

2241 (1) (a) A conspiracy of two or more persons to commit any offense proscribed by this  
2242 part is a third degree felony punishable for each separate offense by a minimum mandatory  
2243 fine of not less than \$1,000 and by imprisonment, without suspension of sentence in any way,  
2244 for a term of not less than 60 days.

2245 (b) This subsection supersedes Section ~~[77-18-1]~~ [77-18-105](#).

2246 (2) (a) If a defendant has already been convicted once under this section, each separate  
2247 further offense is a second degree felony punishable by a minimum mandatory fine of not less  
2248 than \$5,000 and by imprisonment, without suspension of sentence in any way, for a term of not  
2249 less than one year.

2250 (b) This subsection supersedes Section ~~[77-18-1]~~ [77-18-105](#).

2251 Section 41. Section **76-10-1228** is amended to read:

2252 **76-10-1228. Indecent public displays -- Prohibitions -- Penalty.**

2253 (1) Subject to the affirmative defense in Subsection [76-10-1208](#)(3), a person is guilty  
2254 of a class A misdemeanor who willfully or knowingly:

2255 (a) engages in the business of selling, lending, giving away, showing, advertising for  
2256 sale, or distributing to a minor or has in the person's possession with intent to engage in that  
2257 business or to otherwise offer for sale or commercial distribution to a minor any material with:

2258 (i) a description or depiction of illicit sex or sexual immorality; or

2259 (ii) a nude or partially denuded figure; or

2260 (b) publicly displays at newsstands or any other establishment frequented by minors, or  
2261 where the minors are or may be invited as a part of the general public, any motion picture, or  
2262 any live, taped, or recorded performance, or any still picture or photograph, or any book, pocket  
2263 book, pamphlet, or magazine the cover or content of which:

2264 (i) exploits, is devoted to, or is principally made up of one or more descriptions or  
2265 depictions of illicit sex or sexual immorality; or

2266 (ii) consists of one or more pictures of nude or partially denuded figures.

2267 (2) (a) A violation of this section is punishable by:

2268 (i) a minimum mandatory fine of not less than \$500; and

2269 (ii) incarceration, without suspension of sentence in any way, for a term of not less than  
2270 30 days.

2271 (b) This section supersedes Section [~~77-18-1~~] [77-18-105](#).

2272 Section 42. Section **77-1-3** is amended to read:

2273 **77-1-3. Definitions.**

2274 For the purpose of this act:

2275 (1) "Criminal action" means the proceedings by which a person is charged, accused,  
2276 and brought to trial for a public offense.

2277 (2) "Indictment" means an accusation in writing presented by a grand jury to the  
2278 district court charging a person with a public offense.

2279 (3) "Information" means an accusation, in writing, charging a person with a public  
2280 offense which is presented, signed, and filed in the office of the clerk where the prosecution is  
2281 commenced [~~pursuant to Section 77-2-1.1~~] in accordance with Section [77-2-2.2](#).

2282 (4) "Magistrate" means a justice or judge of a court of record or not of record or a  
2283 commissioner of such a court appointed in accordance with Section [78A-5-107](#), except that the  
2284 authority of a court commissioner to act as a magistrate shall be limited by rule of the judicial  
2285 council. The judicial council rules shall not exceed constitutional limitations upon the  
2286 delegation of judicial authority.

2287 (5) "Risk and needs assessment" means an actuarial tool validated on offenders that  
2288 determines:

2289 (a) an individual's risk of reoffending; and

2290 (b) the criminal risk factors that, when addressed, reduce the individual's risk of

2291 reoffending.

2292 Section 43. Section **77-2-2** is amended to read:

2293 **77-2-2. Definitions.**

2294 [~~For the purpose of this chapter:~~]

2295 [~~(1) "Screening" means the process used by a prosecuting attorney to terminate~~  
2296 ~~investigative action, proceed with prosecution, move to dismiss a prosecution that has been~~  
2297 ~~commenced, or cause a prosecution to be diverted;]~~

2298 As used in this chapter:

2299 (1) "Commencement of prosecution" means the filing of an information or an  
2300 indictment.

2301 (2) "Diversion" means suspending criminal proceedings [~~prior to~~] before conviction on  
2302 the condition that a defendant agree to:

2303 (a) participate in a rehabilitation program [~~or make~~];

2304 (b) pay restitution to [~~the~~] a victim; or

2305 (c) fulfill some other condition[~~;~~~~and~~].

2306 [~~(3) "Commencement of prosecution" means the filing of an information or an~~  
2307 ~~indictment.~~]

2308 (3) "Pecuniary damages" means the same as that term is defined in Section  
2309 77-38b-102.

2310 (4) "Restitution" means the same as that term is defined in Section 77-38b-102.

2311 (5) "Screening" means the process used by a prosecuting attorney to:

2312 (a) terminate an investigative action;

2313 (b) proceed with prosecution;

2314 (c) move to dismiss a prosecution that has been commenced; or

2315 (d) cause a prosecution to be diverted.

2316 Section 44. Section **77-2-2.1**, which is renumbered from Section 77-2-1 is renumbered  
2317 and amended to read:

2318 [~~77-2-1~~]. **77-2-2.1. Authorization to file information.**

2319 [~~Unless~~] Except as otherwise provided by law, no information may be filed charging the  
2320 commission of any felony or class A misdemeanor unless authorized by a prosecuting attorney.

2321 Section 45. Section **77-2-2.2**, which is renumbered from Section 77-2-1.1 is

2322 renumbered and amended to read:

2323 ~~[77-2-1.1]~~. **77-2-2.2. Signing and filing of information.**

2324 (1) The prosecuting attorney shall sign all informations.

2325 (2) The prosecuting attorney may:

2326 ~~[(1)]~~ (a) sign the information in the presence of a magistrate; or

2327 ~~[(2)]~~ (b) present and file the information in the office of the clerk where the  
2328 prosecution is commenced upon the signature of the prosecuting attorney.

2329 Section 46. Section **77-2-2.3**, which is renumbered from Section 77-2-1.2 is

2330 renumbered and amended to read:

2331 ~~[77-2-1.2]~~. **77-2-2.3. Reducing the level of an offense.**

2332 (1) Notwithstanding any other provision of law, a prosecuting attorney may:

2333 (a) present and file an information charging an individual for an offense under  
2334 Subsections **76-3-103**(1)(b) through (d), Subsection **76-3-103**(2), or Section **76-3-104** with a  
2335 classification of the offense at one degree lower than the classification that is provided in  
2336 statute if the prosecuting attorney believes that the sentence would be disproportionate to the  
2337 offense because there are special circumstances relating to the offense; or

2338 (b) subject to the approval of the court, amend an information, as part of a plea  
2339 agreement, to charge an individual for an offense under Subsections **76-3-103**(1)(b) through  
2340 (d), Subsection **76-3-103**(2), or Section **76-3-104** with a classification of the offense at one  
2341 degree lower than the classification that is provided in statute.

2342 (2) A court may:

2343 (a) enter a judgment of conviction for an offense filed under Subsection (1) at one  
2344 degree lower than classified in statute; and

2345 (b) impose a sentence for the offense filed under Subsection (1) at one degree lower  
2346 than classified in statute.

2347 (3) A conviction of an offense at one degree lower than classified in statute under  
2348 Subsection (2) does not affect the requirements for registration of the offense under Title 77,  
2349 Chapter 41, Sex and Kidnap Offender Registry, or Title 77, Chapter 43, Child Abuse Offender  
2350 Registry, if the elements of the offense for which the defendant is convicted are the same as the  
2351 elements of an offense described in Section **77-41-102** or **77-43-102**.

2352 (4) This section does not preclude an individual from obtaining and being granted an

2353 expungement for the individual's record in accordance with Title 77, Chapter 40, Utah  
2354 Expungement Act.

2355 Section 47. Section **77-2-5** is amended to read:

2356 **77-2-5. Diversion agreement -- Negotiation -- Contents.**

2357 (1) At any time after the [~~filing of an information or indictment and prior to~~  
2358 commencement of prosecution and before conviction, the prosecuting attorney may, by written  
2359 agreement with the defendant, filed with the court, and upon approval of the court, divert a  
2360 defendant to a non-criminal diversion program.

2361 (2) A defendant shall be represented by counsel during negotiations for diversion and  
2362 at the time of execution of any diversion agreement unless [~~he shall have~~] the defendant has  
2363 knowingly and intelligently waived [~~his~~] the defendant's right to counsel.

2364 (3) The defendant has the right to be represented by counsel at any court hearing  
2365 relating to a diversion program.

2366 (4) [~~Any~~] (a) A diversion agreement, entered into between [the prosecution and the  
2367 defense] the prosecuting attorney and the defendant and approved by a magistrate, shall contain  
2368 a full, detailed statement of the requirements agreed to by the defendant and the reasons for  
2369 diversion.

2370 (b) The diversion agreement described in Subsection (4)(a) shall include an agreement,  
2371 by the parties, for a specific amount of restitution that the defendant will pay, unless the  
2372 prosecuting attorney certifies that:

2373 (i) the prosecuting attorney has consulted with all victims, including the Utah Office  
2374 for Victims of Crime; and

2375 (ii) the defendant does not owe any restitution.

2376 (5) (a) If the court approves a diversion agreement that includes an agreement by the  
2377 parties for the amount of restitution that the defendant will pay, the court shall order the  
2378 defendant to pay restitution in accordance with the terms of the diversion agreement.

2379 (b) The court shall collect, receive, process, and distribute payments for restitution to  
2380 the victim, unless otherwise provided by law or by the diversion agreement.

2381 (6) A decision by a prosecuting attorney not to divert a defendant is not subject to  
2382 judicial review.

2383 [~~(5)~~] (7) Diversion programs longer than two years shall not be permitted.

2384           ~~[(6)]~~ (8) A diversion agreement shall not be approved unless the defendant, before a  
2385 magistrate and in the agreement, knowingly and intelligently waives ~~[his]~~ the defendant's  
2386 constitutional right to a speedy trial.

2387           Section 48. Section **77-2a-1** is amended to read:

2388           **77-2a-1. Definitions.**

2389           ~~[For the purposes of this chapter:]~~

2390           As used in this chapter:

2391           (1) "Pecuniary damages" means the same as that term is defined in Section

2392 [77-38b-102](#).

2393           ~~[(1)]~~ (2) "Plea in abeyance" means an order by a court, upon motion of the  
2394 ~~[prosecution]~~ prosecuting attorney and the defendant, accepting a plea of guilty or of no contest  
2395 from the defendant but not, at that time, entering judgment of conviction against ~~[him]~~ the  
2396 defendant nor imposing sentence upon ~~[him]~~ the defendant on condition that ~~[he]~~ the defendant  
2397 comply with specific conditions as set forth in a plea in abeyance agreement.

2398           ~~[(2)]~~ (3) "Plea in abeyance agreement" means an agreement entered into between the  
2399 ~~[prosecution]~~ prosecuting attorney and the defendant setting forth the specific terms and  
2400 conditions upon which, following acceptance of the agreement by the court, a plea may be held  
2401 in abeyance.

2402           (4) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

2403           Section 49. Section **77-2a-3** is amended to read:

2404           **77-2a-3. Manner of entry of plea -- Powers of court.**

2405           (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be  
2406 done in full compliance with ~~[the provisions of Rule 11, Utah Rules of Criminal Procedure.]~~  
2407 the Utah Rules of Criminal Procedure, Rule 11.

2408           (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance  
2409 agreement may be entered into without a personal appearance before a magistrate.

2410           (2) A plea in abeyance agreement may provide that the court may, upon finding that the  
2411 defendant has successfully completed the terms of the agreement:

2412           (a) reduce the degree of the offense and enter judgment of conviction and impose  
2413 sentence for a lower degree of offense; or

2414           (b) allow withdrawal of defendant's plea and order the dismissal of the case.

2415 (3) (a) Upon finding that a defendant has successfully completed the terms of a plea in  
2416 abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as  
2417 provided in the plea in abeyance agreement or as agreed to by all parties.

2418 (b) Upon sentencing a defendant for any lesser offense ~~[pursuant to]~~ in accordance with  
2419 a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the  
2420 degree of the offense.

2421 (4) The court may require the Department of Corrections to assist in the administration  
2422 of the plea in abeyance agreement as if the defendant were on probation to the court under  
2423 Section ~~[77-18-1]~~ 77-18-105.

2424 (5) The terms of a plea in abeyance agreement may include:

2425 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a  
2426 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in  
2427 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a  
2428 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and  
2429 which may not exceed in amount the maximum fine and surcharge which could have been  
2430 imposed upon conviction and sentencing for the same offense;

2431 ~~[(b) an order that the defendant pay restitution to the victims of the defendant's actions~~  
2432 ~~as provided in Title 77, Chapter 38a, Crime Victims Restitution Act;]~~

2433 ~~[(c)]~~ (b) an order that the defendant pay the costs of any remedial or rehabilitative  
2434 program required by the terms of the agreement; and

2435 ~~[(d)]~~ (c) an order that the defendant comply with any other conditions ~~[which]~~ that  
2436 could have been imposed as conditions of probation upon conviction and sentencing for the  
2437 same offense.

2438 (6) (a) The terms of a plea in abeyance shall include an order for a specific amount of  
2439 restitution that the defendant will pay, as agreed to by the defendant and the prosecuting  
2440 attorney, unless the prosecuting attorney certifies that:

2441 (i) the prosecuting attorney has consulted with all victims, including the Utah Office  
2442 for Victims of Crime; and

2443 (ii) the defendant does not owe any restitution.

2444 (b) The court shall collect, receive, process, and distribute payments for restitution to  
2445 the victim, unless otherwise provided by law or by the plea in abeyance agreement.

2446 (c) If the defendant does not successfully complete the terms of the plea in abeyance,  
2447 the court shall enter an order for restitution, in accordance with Title 77, Chapter 38b, Crime  
2448 Victims Restitution Act, upon entering a sentence for the defendant.

2449 ~~[(6)]~~ (7) (a) A court may not hold a plea in abeyance without the consent of both the  
2450 prosecuting attorney and the defendant.

2451 (b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

2452 ~~[(7)]~~ (8) No plea may be held in abeyance in any case involving a sexual offense  
2453 against a victim who is under ~~[the age of 14.]~~ 14 years old.

2454 ~~[(8)]~~ (9) Beginning on July 1, 2008, no plea may be held in abeyance in any case  
2455 involving a driving under the influence violation under Section ~~41-6a-502.~~

2456 Section 50. Section ~~77-7-5~~ is amended to read:

2457 **77-7-5. Issuance of summons or warrant -- Time and place arrests may be made**  
2458 **-- Contents of warrant or summons -- Responsibility for transporting prisoners -- Court**  
2459 **clerk to dispense costs for transportation.**

2460 (1) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance  
2461 of the accused only upon finding:

2462 (a) probable cause to believe that the person to be arrested has committed a public  
2463 offense; and

2464 (b) under the Utah Rules of Criminal Procedure, and this section that a warrant is  
2465 necessary to:

2466 (i) prevent risk of injury to a person or property;

2467 (ii) secure the appearance of the accused; or

2468 (iii) protect the public safety and welfare of the community or an individual.

2469 (2) If the offense charged is:

2470 (a) a felony, the arrest upon a warrant may be made at any time of the day or night; or

2471 (b) a misdemeanor, the arrest upon a warrant can be made at night only if:

2472 (i) the magistrate has endorsed authorization to do so on the warrant;

2473 (ii) the person to be arrested is upon a public highway, in a public place, or in a place  
2474 open to or accessible to the public; or

2475 (iii) the person to be arrested is encountered by a peace officer in the regular course of  
2476 that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for



2477 arrest.

2478 (3) For the purpose of Subsection (1):

2479 (a) daytime hours are the hours of 6 a.m. to 10 p.m.; and

2480 (b) nighttime hours are the hours after 10 p.m. and before 6 a.m.

2481 (4) (a) If the magistrate determines that the accused must appear in court, the

2482 magistrate shall include in the arrest warrant the name of the law enforcement agency in the

2483 county or municipality with jurisdiction over the offense charged.

2484 (b) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a)

2485 is responsible for providing inter-county transportation of the defendant, if necessary, from the

2486 arresting law enforcement agency to the court site.

2487 (ii) The law enforcement agency named on the warrant may contract with another law

2488 enforcement agency to have a defendant transported.

2489 (c) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a)

2490 as responsible for transporting the defendant shall provide to the court clerk of the court in

2491 which the defendant is tried, an affidavit stating that the defendant was transported, indicating

2492 the law enforcement agency responsible for the transportation, and stating the number of miles

2493 the defendant was transported.

2494 (ii) The court clerk shall:

2495 (A) account for [~~restitution~~] a cost paid under Subsection ~~[76-3-201(5)]~~ for

2496 ~~governmental transportation expenses~~ 76-3-201(4)(b) for government transportation; and

2497 (B) dispense [~~restitution~~] money collected by the court under Subsection (4)(c)(ii)(A)

2498 to the law enforcement agency responsible for the transportation of a convicted defendant.

2499 (5) The law enforcement agency identified by the magistrate under Subsection (4)(a)

2500 shall indicate to the court within 48 hours of the issuance, excluding Saturdays, Sundays, and

2501 legal holidays if a warrant issued [~~pursuant to~~] in accordance with this section is an extradition

2502 warrant.

2503 (6) The law enforcement agency identified by the magistrate under Subsection (4)(a)

2504 shall report any changes to the status of a warrant issued [~~pursuant to~~] in accordance with this

2505 section to the Bureau of Criminal Identification.

2506 Section 51. Section ~~77-7-21~~ is amended to read:

2507 **77-7-21. Proceeding on citation -- Voluntary forfeiture of bail -- Parent signature**

2508 **required -- Information, when required.**

2509 (1) (a) A citation filed with the court may, with the consent of the defendant, serve in  
2510 lieu of an information to which the defendant may plead guilty or no contest to the charge or  
2511 charges listed and be sentenced accordingly.

2512 (b) If provided by the uniform fine schedule described in Section 76-3-301.5, an  
2513 individual may remit the fine and other penalties without a personal appearance before the  
2514 court in any case charging a class B misdemeanor or lower offense, unless the charge is:

2515 (i) a domestic violence offense as defined in Section 77-36-1;

2516 (ii) a violation of Section 41-6a-502, driving under the influence of alcohol, drugs, or a  
2517 combination of both or with specified or unsafe blood alcohol concentration;

2518 (iii) a violation of Section 41-6a-517, driving with any measurable controlled substance  
2519 in the body;

2520 (iv) a violation of a local ordinance similar to the offenses described in Subsections  
2521 (1)(b)(i) through (iii); or

2522 (v) a violation that appears to:

2523 (A) affect a victim, as defined in Section [~~77-38a-102~~] 77-38b-102; or

2524 (B) require restitution, as defined in Section [~~77-38a-102~~] 77-38b-102.

2525 (c) The remittal of fines and other penalties shall be entered as a conviction and treated  
2526 the same as if the accused pleaded no contest.

2527 (d) If the person cited is under 18 years [~~of age~~] old, the court shall promptly mail a  
2528 copy or notice of the citation to the address as shown on the citation, to the attention of the  
2529 parent or guardian of the defendant.

2530 (2) If the individual pleads not guilty to the offense charged, further proceedings shall  
2531 be held in accordance with the Rules of Criminal Procedure and all other applicable provisions  
2532 of this code.

2533 Section 52. Section 77-18-101 is enacted to read:

2534 **77-18-101. Title.**

2535 This chapter is known as "The Judgment."

2536 Section 53. Section 77-18-102 is enacted to read:

2537 **77-18-102. Definitions.**

2538 As used in this chapter:

- 2539           (1) "Assessment" means, except as provided in Section 77-18-104, the same as the  
2540 term "risk and needs assessment" in Section 77-1-3.
- 2541           (2) "Board" means the Board of Pardons and Parole created in Section 77-27-2.
- 2542           (3) "Civil accounts receivable" means the same as that term is defined in Section  
2543 77-32b-102.
- 2544           (4) "Civil judgment of restitution" means the same as that term is defined in Section  
2545 77-32b-102.
- 2546           (5) "Convicted" means the same as that term is defined in Section 76-3-201.
- 2547           (6) "Criminal accounts receivable" means the same as that term is defined in Section  
2548 77-32b-102.
- 2549           (7) "Default" means the same as that term is defined in Section 77-32b-102.
- 2550           (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.
- 2551           (9) "Department" means the Department of Corrections created in Section 64-13-2.
- 2552           (10) "Payment schedule" means the same as that term is defined in Section  
2553 77-32b-102.
- 2554           (11) "Restitution" means the same as that term is defined in Section 77-38b-102.
- 2555           (12) "Screening" means, except as provided in Section 77-18-104, a tool or  
2556 questionnaire that is designed to determine whether an individual needs further assessment or  
2557 any additional resource or referral for treatment.
- 2558           (13) "Substance use disorder treatment" means treatment obtained through a substance  
2559 use disorder program that is licensed by the Office of Licensing within the Department of  
2560 Human Services.
- 2561           Section 54. Section **77-18-103** is enacted to read:
- 2562           **77-18-103. Presentence investigation report -- Classification of presentence**  
2563 **investigation report -- Evidence or other information at sentencing.**
- 2564           (1) Before the imposition of a sentence, the court may:
- 2565           (a) upon agreement of the defendant, continue the date for the imposition of the  
2566 sentence for a reasonable period of time for the purpose of obtaining a presentence  
2567 investigation report from the department or information from other sources about the  
2568 defendant; and
- 2569           (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the

2570 department prepare a presentence investigation report for the defendant.

2571 (2) If a presentence investigation report is required under the standards established by  
2572 the department described in Section 77-18-109, the presentence investigation report under  
2573 Subsection (1) shall include:

2574 (a) any impact statement provided by a victim as described in Subsection  
2575 77-38b-203(3)(c);

2576 (b) information on restitution as described in Subsection 77-38b-203(3)(a) and (b);

2577 (c) findings from any screening and any assessment of the defendant conducted under  
2578 Section 77-18-104;

2579 (d) recommendations for treatment for the defendant; and

2580 (e) the number of days since the commission of the offense that the defendant has spent  
2581 in the custody of the jail and the number of days, if any, the defendant was released to a  
2582 supervised release program or an alternative incarceration program under Section 17-22-5.5.

2583 (3) The department shall provide the presentence investigation report to the defendant's  
2584 attorney, or the defendant if the defendant is not represented by counsel, the prosecuting  
2585 attorney, and the court for review within three working days before the day on which the  
2586 defendant is sentenced.

2587 (4) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is  
2588 not resolved by the parties and the department before sentencing:

2589 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing;

2590 and

2591 (B) the court may grant an additional 10 working days after the day on which the  
2592 alleged inaccuracy is brought to the court's attention to allow the parties and the department to  
2593 resolve the alleged inaccuracy in the presentence investigation report.

2594 (ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the  
2595 alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is  
2596 an inaccuracy in the presentence investigation report, the court shall:

2597 (A) enter a written finding as to the relevance and accuracy of the challenged portion of  
2598 the presentence investigation report; and

2599 (B) provide the written finding to the Division of Adult Probation and Parole.

2600 (b) The Division of Adult Probation and Parole shall attach the written finding to the

2601 presentence investigation report as an addendum.

2602 (c) If a party fails to challenge the accuracy of the presentence investigation report at  
2603 the time of sentencing, the matter shall be considered waived.

2604 (5) The contents of the presentence investigation report are protected and not available  
2605 except by court order for purposes of sentencing as provided by rule of the Judicial Council or  
2606 for use by the department.

2607 (6) (a) A presentence investigation report is classified as protected in accordance with  
2608 Title 63G, Chapter 2, Government Records Access and Management Act.

2609 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee  
2610 may not order the disclosure of a presentence investigation report.

2611 (7) Except for disclosure at the time of sentencing in accordance with this section, the  
2612 department may disclose a presentence investigation only when:

2613 (a) ordered by the court in accordance with Subsection 63G-2-202(7);

2614 (b) requested by a law enforcement agency or other agency approved by the department  
2615 for purposes of supervision, confinement, and treatment of a defendant;

2616 (c) requested by the board;

2617 (d) requested by the subject of the presentence investigation report or the subject's  
2618 authorized representative;

2619 (e) requested by the victim of the offense discussed in the presentence investigation  
2620 report, or the victim's authorized representative, if the disclosure is only information relating

2621 to:

2622 (i) statements or materials provided by the victim;

2623 (ii) the circumstances of the offense, including statements by the defendant; or

2624 (iii) the impact of the offense on the victim or the victim's household; or

2625 (f) requested by a sex offender treatment provider:

2626 (i) who is certified to provide treatment under the certification program established in  
2627 Subsection 64-13-25(3);

2628 (ii) who is providing, at the time of the request, sex offender treatment to the offender  
2629 who is the subject of the presentence investigation report; and

2630 (iii) who provides written assurance to the department that the report:

2631 (A) is necessary for the treatment of the defendant;

2632 (B) will be used solely for the treatment of the defendant; and

2633 (C) will not be disclosed to an individual or entity other than the defendant.

2634 (8) (a) At the time of sentence, the court shall receive any testimony, evidence, or  
2635 information that the defendant or the prosecuting attorney desires to present concerning the  
2636 appropriate sentence.

2637 (b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in  
2638 open court on record and in the presence of the defendant.

2639 Section 55. Section **77-18-104**, which is renumbered from Section 77-18-1.1 is  
2640 renumbered and amended to read:

2641 ~~[77-18-1.1].~~ **77-18-104. Screening, assessment, and treatment.**

2642 (1) As used in this section:

2643 (a) "Assessment" has the same meaning as in Section [41-6a-501](#).

2644 ~~[(b) "Convicted" means:]~~

2645 ~~[(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental~~  
2646 ~~illness, or no contest; and]~~

2647 ~~[(ii) conviction of any crime or offense.]~~

2648 ~~[(c)]~~ (b) "Screening" has the same meaning as in Section [41-6a-501](#).

2649 ~~[(d) "Substance use disorder treatment" means treatment obtained through a substance~~  
2650 ~~use disorder program that is licensed by the Office of Licensing within the Department of~~  
2651 ~~Human Services.]~~

2652 ~~[(2) On or after July 1, 2009, the courts of the judicial districts where the Drug-Related~~  
2653 ~~Offenses Reform Act under Section [63M-7-305](#) is implemented shall, in coordination with the~~  
2654 ~~local substance abuse authority regarding available resources;]~~

2655 (2) In coordination with the local substance abuse authority regarding available  
2656 resources, a court in which the Drug-Related Offenses Reform Act under Section [63M-7-305](#) is  
2657 implemented shall order ~~[convicted persons]~~ a convicted defendant, who is determined to be  
2658 eligible in accordance with the implementation plan developed by the Utah Substance Use and  
2659 Mental Health Advisory Council under Section [63M-7-305](#), to:

2660 (a) participate in a screening ~~[prior to]~~ before sentencing;

2661 (b) participate in an assessment ~~[prior to]~~ before sentencing if the screening indicates  
2662 an assessment to be appropriate; and

2663 (c) participate in substance use disorder treatment if:  
2664 (i) the assessment indicates treatment to be appropriate;  
2665 (ii) the court finds treatment to be appropriate for the convicted [person] defendant;  
2666 and  
2667 (iii) the court finds the convicted [person] defendant to be an appropriate candidate for  
2668 community-based supervision.

2669 (3) The findings from any screening and any assessment conducted under this section  
2670 shall be part of the presentence investigation report submitted to the court [~~before sentencing of~~  
2671 ~~the convicted person~~] under Section [77-18-103](#).

2672 (4) Money appropriated by the Legislature to assist in the funding of the screening,  
2673 assessment, substance use disorder treatment, and supervision provided under this section is  
2674 not subject to any requirement regarding matching funds from a state or local governmental  
2675 entity.

2676 Section 56. Section **77-18-105** is enacted to read:

2677 **77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation --**  
2678 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**  
2679 **supervision for payments on criminal accounts receivable.**

2680 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in  
2681 abeyance agreement, the court may hold the plea in abeyance:

2682 (a) in accordance with Chapter 2a, Pleas in Abeyance; and

2683 (b) under the terms of the plea in abeyance agreement.

2684 (2) If a defendant is convicted, the court:

2685 (a) shall impose a sentence in accordance with Section [76-3-201](#); and

2686 (b) may suspend the execution of the sentence and place the defendant:

2687 (i) on probation under the supervision of the department, except as provided in  
2688 Subsection (5);

2689 (ii) on probation under the supervision of an agency of a local government or a private  
2690 organization; or

2691 (iii) on court probation under the jurisdiction of the sentencing court.

2692 (3) (a) The legal custody of all probationers under the supervision of the department is  
2693 with the department.

2694 (b) The legal custody of all probationers under the jurisdiction of the sentencing court  
2695 is vested as ordered by the court.

2696 (c) The court has continuing jurisdiction over all probationers.

2697 (4) (a) Court probation may include an administrative level of services, including  
2698 notification to the sentencing court of scheduled periodic reviews of the probationer's  
2699 compliance with conditions.

2700 (b) Supervised probation services provided by the department, an agency of a local  
2701 government, or a private organization shall specifically address the defendant's risk of  
2702 reoffending as identified by a screening or an assessment.

2703 (5) A court may not order the department to supervise the probation of an individual  
2704 who is convicted of a class B or C misdemeanor or an infraction.

2705 (6) (a) If a defendant is placed on probation, the court may order the defendant as a  
2706 condition of the defendant's probation:

2707 (i) to provide for the support of persons for whose support the defendant is legally  
2708 liable;

2709 (ii) to participate in available treatment programs, including any treatment program in  
2710 which the defendant is currently participating if the program is acceptable to the court;

2711 (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and  
2712 Mental Health for treatment at the Utah State Hospital in accordance with Section [77-18-106](#);

2713 (iv) if the defendant is on probation for a felony offense, to serve a period of time as an  
2714 initial condition of probation that does not exceed one year in a county jail designated by the  
2715 department, after considering any recommendation by the court as to which jail the court finds  
2716 most appropriate;

2717 (v) to serve a term of home confinement in accordance with Section [77-18-107](#);

2718 (vi) to participate in compensatory service programs, including the compensatory  
2719 service program described in Section [76-6-107.1](#);

2720 (vii) to pay for the costs of investigation, probation, or treatment services;

2721 (viii) to pay a criminal accounts receivable established for the defendant under Section  
2722 [77-32b-103](#); or

2723 (ix) to comply with other terms and conditions the court considers appropriate to  
2724 ensure public safety or increase a defendant's likelihood of success on probation.



2725 (b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a  
2726 defendant to include a period of time that is served in a county jail immediately before the  
2727 termination of probation as long as that period of time does not exceed one year.

2728 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation  
2729 violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply  
2730 to the period of time that the court orders the defendant to serve in a county jail under this  
2731 Subsection (6)(b)(ii).

2732 (7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on  
2733 probation after December 31, 2018:

2734 (i) may not exceed the individual's maximum sentence;

2735 (ii) shall be for a period of time that is in accordance with the supervision length  
2736 guidelines established by the Utah Sentencing Commission under Section [63M-7-404](#), to the  
2737 extent the guidelines are consistent with the requirements of the law; and

2738 (iii) shall be terminated in accordance with the supervision length guidelines  
2739 established by the Utah Sentencing Commission under Section [63M-7-404](#), to the extent the  
2740 guidelines are consistent with the requirements of the law.

2741 (b) Probation of an individual placed on probation after December 31, 2018, whose  
2742 maximum sentence is one year or less, may not exceed 36 months.

2743 (c) Probation of an individual placed on probation on or after October 1, 2015, but  
2744 before January 1, 2019, may be terminated at any time at the discretion of the court or upon  
2745 completion without violation of 36 months probation in felony or class A misdemeanor cases,  
2746 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance  
2747 with Section [64-13-21](#) regarding earned credits.

2748 (d) This Subsection (7) does not apply to the probation of an individual convicted of an  
2749 offense for criminal nonsupport under Section [76-7-201](#).

2750 (8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal  
2751 accounts receivable for the defendant upon termination of the probation period for the  
2752 defendant under Subsection (7), the court may require the defendant to continue to make  
2753 payments towards the criminal accounts receivable in accordance with the payment schedule  
2754 established by the court under Section [77-32b-103](#).

2755 (b) A court may not require the defendant to make payments as described in Subsection

2756 (8)(a) beyond the expiration of the defendant's sentence.

2757 (c) If the court requires a defendant to continue to pay in accordance with the payment  
2758 schedule for the criminal accounts receivable under this Subsection (8) and the defendant  
2759 defaults on the criminal accounts receivable, the court shall proceed with an order for a civil  
2760 judgment of restitution and a civil accounts receivable for the defendant as described in Section  
2761 77-18-114.

2762 (d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's  
2763 own motion, the court may require a defendant to show cause as to why the defendant's failure  
2764 to pay in accordance with the payment schedule should not be treated as contempt of court.

2765 (ii) A court may hold a defendant in contempt for failure to make payments for a  
2766 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

2767 (e) This Subsection (8) does not apply to the probation of an individual convicted of an  
2768 offense for criminal nonsupport under Section 76-7-201.

2769 Section 57. Section **77-18-106** is enacted to read:

2770 **77-18-106. Treatment at the Utah State Hospital -- Condition of probation or stay**  
2771 **of sentence.**

2772 The court may order as a condition of probation, or a stay of sentence, that the  
2773 defendant be voluntarily admitted to the custody of the Division of Substance Abuse and  
2774 Mental Health for treatment at the Utah State Hospital only if the superintendent of the Utah  
2775 State Hospital, or the superintendent's designee, certifies to the court that:

2776 (1) the defendant is appropriate for, and can benefit from, treatment at the Utah State  
2777 Hospital;

2778 (2) there is space at the Utah State Hospital for treatment of the defendant; and

2779 (3) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for  
2780 treatment over the defendant.

2781 Section 58. Section **77-18-107** is enacted to read:

2782 **77-18-107. Home confinement -- Electronic monitoring for home confinement.**

2783 (1) The court may order home confinement as a condition of probation under the  
2784 supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

2785 (2) The department shall establish procedures and standards for home confinement for  
2786 all defendants supervised by the department for home confinement.

2787 (3) If the court places the defendant on probation and orders the defendant to  
2788 participate in home confinement under Subsection (1), the court may order the defendant to  
2789 participate in home confinement through the use of electronic monitoring until further order of  
2790 the court.

2791 (4) The electronic monitoring of a defendant shall alert the department and the  
2792 appropriate law enforcement agency of the defendant's whereabouts.

2793 (5) An electronic monitoring device shall be used under conditions that require:

2794 (a) the defendant to wear an electronic monitoring device at all times; and

2795 (b) the device be placed in the home of the defendant to monitor the defendant's  
2796 compliance with the court's order.

2797 (6) If a court orders a defendant to participate in home confinement through electronic  
2798 monitoring as a condition of probation under Subsection (3), the court shall:

2799 (a) place the defendant on probation under the supervision of the department;

2800 (b) order the department to place an electronic monitoring device on the defendant and  
2801 install electronic monitoring equipment in the residence of the defendant; and

2802 (c) order the defendant to pay the costs associated with home confinement to the  
2803 department or the program provider.

2804 (7) The department shall pay the costs of home confinement through electronic  
2805 monitoring only for an individual who is determined to be indigent by the court.

2806 (8) The department may provide the electronic monitoring described in this section  
2807 directly or by contract with a private provider.

2808 Section 59. Section **77-18-108** is enacted to read:

2809 **77-18-108. Termination, revocation, modification, or extension of probation --**  
2810 **Violation of probation -- Hearing on violation.**

2811 (1) (a) The department shall notify the court and the prosecuting attorney, in writing:

2812 (i) when the department is requesting termination of supervision for a defendant; or

2813 (ii) before a defendant's supervision will be terminated by law.

2814 (b) The notification under this Subsection (1) shall include a probation progress report.

2815 (c) If a defendant's probation is being terminated, and the defendant's criminal accounts  
2816 receivable has an unpaid balance or there is any outstanding debt with the department, the  
2817 department shall notify the Office of State Debt Collection that the defendant's criminal

2818 accounts receivable has an unpaid balance or there is an outstanding debt with the department.

2819 (2) (a) The court may modify the defendant's probation in accordance with the  
2820 supervision length guidelines and the graduated sanctions and incentives developed by the Utah  
2821 Sentencing Commission under Section [63M-7-404](#).

2822 (b) The court may not:

2823 (i) extend the length of a defendant's probation, except upon:

2824 (A) waiver of a hearing by the defendant; or

2825 (B) a hearing and a finding by the court that the defendant has violated the terms of  
2826 probation;

2827 (ii) revoke a defendant's probation, except upon a hearing and a finding by the court  
2828 that the terms of probation have been violated; or

2829 (iii) terminate a defendant's probation before expiration of the probation period until  
2830 the court enters a finding of whether the defendant owes restitution under Section [77-38b-205](#).

2831 (3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in  
2832 substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act,  
2833 alleging with particularity facts asserted to constitute violation of the terms of a defendant's  
2834 probation, the court shall determine if the affidavit or unsworn written declaration establishes  
2835 probable cause to believe that revocation, modification, or extension of the defendant's  
2836 probation is justified.

2837 (b) (i) If the court determines there is probable cause, the court shall order that the  
2838 defendant be served with:

2839 (A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written  
2840 declaration; and

2841 (B) an order to show cause as to why the defendant's probation should not be revoked,  
2842 modified, or extended.

2843 (ii) The order under Subsection (3)(b)(i)(B) shall:

2844 (A) be served upon the defendant at least five days before the day on which the hearing  
2845 is held;

2846 (B) specify the time and place of the hearing; and

2847 (C) inform the defendant of the right to be represented by counsel at the hearing, the  
2848 right to have counsel appointed if the defendant is indigent, and the right to present evidence at

2849 the hearing.

2850 (iii) The defendant shall show good cause for a continuance of the hearing.

2851 (c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or  
2852 unsworn written declaration.

2853 (d) (i) If the defendant denies the allegations of the affidavit or unsworn written  
2854 declaration, the prosecuting attorney shall present evidence on the allegations.

2855 (ii) If the affidavit, or unsworn written declaration, alleges that a defendant is  
2856 delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall  
2857 present evidence to establish, by a preponderance of the evidence, that the defendant:

2858 (A) was aware of the defendant's obligation to pay the balance of the criminal accounts  
2859 receivable;

2860 (B) had the ability to make a payment on the balance of the criminal accounts  
2861 receivable; and

2862 (C) failed to pay on the balance of the criminal accounts receivable as ordered by the  
2863 court.

2864 (e) The persons who have given adverse information on which the allegations are  
2865 based shall be presented as witnesses subject to questioning by the defendant, unless the court  
2866 for good cause otherwise orders.

2867 (f) At the hearing, the defendant may:

2868 (i) call witnesses;

2869 (ii) appear and speak in the defendant's own behalf; and

2870 (iii) present evidence.

2871 (g) (i) After the hearing, the court shall make findings of fact.

2872 (ii) Upon a finding that the defendant violated the terms of the defendant's probation,  
2873 the court may order the defendant's probation terminated, revoked, modified, continued, or  
2874 reinstated for all or a portion of the original term of probation.

2875 (4) (a) (i) Except as provided in Subsection 77-18-105(7), the court may not require a  
2876 defendant to remain on probation for a period of time that exceeds the length of the defendant's  
2877 maximum sentence.

2878 (ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is  
2879 revoked and later reinstated, the total time of all periods of probation that the defendant serves,

2880 in relation to the same sentence, may not exceed the defendant's maximum sentence.

2881 (b) If a period of incarceration is imposed for a violation of the defendant's probation,  
2882 the defendant shall be sentenced within the guidelines established by the Utah Sentencing  
2883 Commission in accordance with Subsection 63M-7-404(4), unless the court determines that:

2884 (i) the defendant needs substance abuse or mental health treatment, as determined by a  
2885 screening and an assessment, that warrants treatment services that are immediately available in  
2886 the community; or

2887 (ii) the sentence previously imposed shall be executed.

2888 (c) If the defendant had, before the imposition of a term of incarceration or the  
2889 execution of the previously imposed sentence under this section, served time in jail as a term of  
2890 probation or due to a violation of probation, the time that the defendant served in jail  
2891 constitutes service of time toward the sentence previously imposed.

2892 (5) (a) Any time served by a defendant:

2893 (i) outside of confinement after having been charged with a probation violation, and  
2894 before a hearing to revoke probation, does not constitute service of time toward the total  
2895 probation term, unless the defendant is exonerated at a hearing to revoke the defendant's  
2896 probation;

2897 (ii) in confinement awaiting a hearing or a decision concerning revocation of the  
2898 defendant's probation does not constitute service of time toward the total probation term, unless  
2899 the defendant is exonerated at the hearing to revoke probation; or

2900 (iii) in confinement awaiting a hearing or a decision concerning revocation of the  
2901 defendant's probation constitutes service of time toward a term of incarceration imposed as a  
2902 result of the revocation of probation or a graduated sanction imposed under the guidelines  
2903 established by the Utah Sentencing Commission in accordance with Section 63M-7-404.

2904 (b) The running of the probation period is tolled upon:

2905 (i) the filing of a report with the court alleging a violation of the terms of the  
2906 defendant's probation; or

2907 (ii) the issuance of an order or a warrant under Subsection (3).

2908 Section 60. Section **77-18-109** is enacted to read:

2909 **77-18-109. Standards for supervision and presentence investigation.**

2910 (1) The department shall establish supervision and presentence investigation standards

2911 for all individuals referred to the department based on:

2912 (a) the type of offense;

2913 (b) the results of a screening and an assessment;

2914 (c) the demand for services;

2915 (d) the availability of agency resources;

2916 (e) public safety; and

2917 (f) other criteria established by the department to determine what level of services shall  
2918 be provided.

2919 (2) The department shall submit annually proposed supervision and presentence  
2920 investigation standards to the Judicial Council and the board before the department adopts the  
2921 standards.

2922 (3) The Judicial Council and the department shall establish procedures to implement  
2923 the supervision and presentence investigation standards.

2924 (4) The Judicial Council and the department shall annually consider modifications to  
2925 the standards based upon criteria in Subsection (1) and other criteria as the Judicial Council  
2926 and the department consider appropriate.

2927 (5) The Judicial Council and the department shall:

2928 (a) annually prepare an impact report; and

2929 (b) submit the impact report to the appropriate legislative appropriations  
2930 subcommittee.

2931 Section 61. Section ~~77-18-110~~, which is renumbered from Section 77-18-3 is  
2932 renumbered and amended to read:

2933 ~~[77-18-3].~~ **77-18-110. Disposition of fines.**

2934 ~~[Fines]~~ A fine imposed by the district court shall be paid ~~[as provided in]~~ in accordance  
2935 with Section 78A-5-110.

2936 Section 62. Section ~~77-18-111~~, which is renumbered from Section 77-18-4 is  
2937 renumbered and amended to read:

2938 ~~[77-18-4].~~ **77-18-111. Sentence -- Term -- Construction.**

2939 (1) ~~[Whenever a person]~~ If an individual is convicted of a crime and the judgment  
2940 provides for a commitment to the state prison, the court shall not fix a definite term of  
2941 imprisonment unless otherwise provided by law.

2942 (2) The sentence and judgment of imprisonment shall be for an indeterminate term of  
2943 not less than the minimum and not to exceed the maximum term provided by law for the  
2944 particular crime.

2945 (3) Except as otherwise expressly provided by law, every sentence, regardless of [its]  
2946 the sentence's form or terms, which purports to be for a shorter or different period of time, shall  
2947 be construed to be a sentence for the term between the minimum and maximum periods of time  
2948 provided by law and shall continue until the maximum period has been reached unless sooner  
2949 terminated or commuted by authority of the [~~Board of Pardons and Parole~~] board.

2950 Section 63. Section ~~77-18-112~~, which is renumbered from Section 77-18-5 is  
2951 renumbered and amended to read:

2952 ~~[77-18-5]~~. 77-18-112. Reports by courts and prosecuting attorneys to Board of  
2953 Pardons and Parole.

2954 In cases where an indeterminate sentence is imposed, the [~~judge~~] court and prosecuting  
2955 attorney may, within 30 days, mail a statement to the [~~Board of Pardons and Parole~~] board  
2956 setting forth the term for which the prisoner ought to be imprisoned together with any  
2957 information which might aid the board in passing on the application for termination or  
2958 commutation of the sentence or for parole or pardon.

2959 Section 64. Section ~~77-18-113~~, which is renumbered from Section 77-18-5.5 is  
2960 renumbered and amended to read:

2961 ~~[77-18-5.5]~~. 77-18-113. Judgment of death -- Method is lethal injection --  
2962 Exceptions for use of firing squad.

2963 (1) (a) When a defendant is convicted of a capital felony and the judgment of death has  
2964 been imposed, lethal intravenous injection is the method of execution.

2965 (b) Subsection (1)(a) applies to any defendant sentenced to death on or after May 3,  
2966 2004, except under Subsections (2), (3), and (4).

2967 (2) (a) If a court holds that a defendant has a right to be executed by a firing squad, the  
2968 method of execution for that defendant shall be a firing squad.

2969 (b) This Subsection (2) applies to any defendant whose right to be executed by a firing  
2970 squad is preserved by that judgment.

2971 (3) (a) If a court holds that execution by lethal injection is unconstitutional on its face,  
2972 the method of execution shall be a firing squad.



2973 (b) If a court holds that execution by lethal injection is unconstitutional as applied, the  
2974 method of execution for that defendant shall be a firing squad.

2975 (4) The method of execution for the defendant is the firing squad if the sentencing  
2976 court determines the state is unable to lawfully obtain the substance or substances necessary to  
2977 conduct an execution by lethal intravenous injection 30 or more days [~~prior to~~] before the date  
2978 specified in the warrant issued upon a judgment of death under Section 77-19-6.

2979 Section 65. Section 77-18-114 is enacted to read:

2980 **77-18-114. Unpaid balance at termination of sentence -- Past due account -- Notice**  
2981 **-- Account or judgment paid in full -- Effect of civil accounts receivable and civil**  
2982 **judgment of restitution.**

2983 (1) When a defendant's sentence is terminated by law or by the decision of the court or  
2984 the board:

2985 (a) the board shall provide an accounting of the unpaid balance of the defendant's  
2986 criminal accounts receivable to the court if the defendant was on parole or incarcerated at the  
2987 time of termination; and

2988 (b) within 90 days after the day on which a defendant's sentence is terminated, the  
2989 court shall:

2990 (i) enter an order for a civil accounts receivable and a civil judgment of restitution for a  
2991 defendant on the civil judgment docket;

2992 (ii) transfer the responsibility of collecting the civil accounts receivable and the civil  
2993 judgment of restitution to the Office of State Debt Collection; and

2994 (iii) identify in the order under this Subsection (1):

2995 (A) the Office of State Debt Collection as a judgment creditor for the civil accounts  
2996 receivable and the civil judgment of restitution; and

2997 (B) the victim as a judgment creditor for the civil judgment of restitution.

2998 (2) If a criminal accounts receivable for the defendant is more than 90 days past due  
2999 and the court has ordered that a defendant does not owe restitution to any victim, or the time  
3000 period in Subsection 77-38b-205(6) has passed and the court has not ordered restitution, the  
3001 court may:

3002 (a) enter an order for a civil accounts receivable for the defendant on the civil judgment  
3003 docket;

3004 (b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as  
3005 a judgment creditor for the civil accounts receivable; and

3006 (c) transfer the responsibility of collecting the civil accounts receivable to the Office of  
3007 State Debt Collection.

3008 (3) An order for a criminal accounts receivable is no longer in effect after the court  
3009 enters an order for a civil accounts receivable or a civil judgment of restitution under  
3010 Subsection (1) or (2).

3011 (4) The court shall provide notice to the Office of State Debt Collection and the  
3012 prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the  
3013 civil judgment of restitution.

3014 (5) The Office of State Debt Collection shall:

3015 (a) notify the court when a civil judgment of restitution or a civil accounts receivable is  
3016 satisfied; and

3017 (b) provide the court with an accounting of any distribution made by the Office of State  
3018 Collection for the civil accounts receivable and the civil judgment of restitution.

3019 (6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil  
3020 accounts receivable on the civil judgment docket, or when restitution is recorded as an order  
3021 for a civil judgment of restitution on the civil judgment docket, the order:

3022 (a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

3023 (b) may be collected by any means authorized by law for the collection of a civil  
3024 judgment.

3025 (7) (a) A criminal account receivable, a civil accounts receivable, and a civil judgment  
3026 of restitution are not subject to the civil statutes of limitation and expire only upon payment in  
3027 full.

3028 (b) This Subsection (7) applies to any criminal accounts receivable, civil accounts  
3029 receivable, or civil judgment of restitution not paid in full on or before May 5, 2021.

3030 (8) (a) If a defendant asserts that a payment was made to a victim or third party for a  
3031 civil judgment of restitution, or enters into any other transaction that does not involve the  
3032 Office of State Debt Collection, and the defendant asserts that the payment results in a credit  
3033 towards the civil judgment of restitution for the defendant:

3034 (i) the defendant shall provide notice to the Office of State Debt Collection and the

3035 prosecuting attorney within 30 days after the day on which the payment or other transaction is  
3036 made; and

3037 (ii) the payment may only be credited towards the principal of the civil judgment of  
3038 restitution and does not affect any other amount owed to the Office of State Debt Collection  
3039 under Section [63A-3-502](#).

3040 (b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party  
3041 from providing notice of a payment towards a civil judgment of restitution to the Office of  
3042 State Debt Collection.

3043 Section 66. Section **77-18-115**, which is renumbered from Section 77-18-6.5 is  
3044 renumbered and amended to read:

3045 **[77-18-6.5]. 77-18-115. Liability of rescued person for costs of emergency**  
3046 **response.**

3047 (1) Any person who violates Section [76-6-206.1](#) and whose conduct required  
3048 emergency care, rescue, assistance, or recovery services at the scene of an abandoned or  
3049 inactive mine may be charged with the expenses incurred in meeting the emergency.

3050 (2) (a) The court's order shall be a judgment [~~which~~] that orders the payment of  
3051 reimbursement to any public agency or private body that incurred the expenses.

3052 (b) The judgment shall constitute a lien when recorded in the judgment docket and  
3053 shall have the same effect and is subject to the same rules as a judgment for money in a civil  
3054 action.

3055 (3) The liability imposed under this section is in addition to and not in limitation of any  
3056 other liability that may be imposed.

3057 Section 67. Section **77-18-116**, which is renumbered from Section 77-18-7 is  
3058 renumbered and amended to read:

3059 **[77-18-7]. 77-18-116. Costs imposed on defendant -- Restrictions.**

3060 Unless specifically authorized by statute, a defendant shall not be required to pay court  
3061 costs in a criminal case [~~either as~~] as:

3062 (1) a part of a sentence; or [~~as~~]

3063 (2) a condition of probation or dismissal.

3064 Section 68. Section **77-18-117**, which is renumbered from Section 77-18-8 is  
3065 renumbered and amended to read:

3066 ~~[77-18-8]~~. 77-18-117. Fine not paid -- Commitment.

3067 (1) When a defendant is sentenced to pay a fine in addition to a jail or a prison sentence  
3068 and the judgment is that the jail or prison sentence be suspended upon payment of the fine, the  
3069 service of the jail or prison sentence shall satisfy the judgment.

3070 (2) If a defendant fails to pay the fine and ~~[thereafter]~~ the court finds that the defendant  
3071 failed to make a good faith effort to pay the fine, the court may, after a hearing, order the  
3072 execution of the suspended jail or prison sentence.

3073 (3) If a defendant is sentenced to pay a fine only, or is sentenced to jail or prison and a  
3074 fine, with neither suspended, ~~[he shall not]~~ the defendant may not later be committed to jail for  
3075 failure to pay the fine.

3076 Section 69. Section ~~77-18-118~~ is enacted to read:

3077 77-18-118. Continuing jurisdiction of a sentencing court.

3078 (1) A sentencing court shall retain jurisdiction over a defendant's criminal case:

3079 (a) if the defendant is on probation as described in Subsection 77-18-105(3)(c);

3080 (b) if the defendant is on probation and the probation period has terminated under  
3081 Subsection 77-18-105(7), to require the defendant to continue to make payments towards a  
3082 criminal accounts receivable until the defendant's sentence expires;

3083 (c) within the time periods described in Subsection 77-38b-205(6), to enter or modify  
3084 an order for a criminal accounts receivable in accordance with Section 77-32b-103;

3085 (d) within the time periods described in Subsection 77-38b-205(6), to enter or modify  
3086 an order for restitution in accordance with Section 77-38b-205;

3087 (e) until a defendant's sentence is terminated, to correct an error for a criminal accounts  
3088 receivable in accordance with Subsection 77-32b-105(1)(a);

3089 (f) until a defendant's sentence is terminated, to modify a payment schedule for a  
3090 criminal accounts receivable in accordance with Subsection 77-32b-105(1)(b);

3091 (g) if a defendant files a petition for remittance under Subsection 77-32b-105(1)(c)  
3092 before the defendant's sentence is terminated, for 90 days from the day on which the petition is  
3093 filed to determine whether to remit, in whole or in part, the defendant's criminal accounts  
3094 receivable;

3095 (h) if a defendant files a petition for remittance under Subsection 77-32b-106(1) within  
3096 90 days from the day on which the defendant's sentence is terminated, to determine whether to

3097 remit, in whole or in part, the defendant's criminal accounts receivable; and

3098 (i) to enter an order for a civil accounts receivable and a civil judgment of restitution in  
3099 accordance with Section [77-18-114](#).

3100 (2) This section does not prevent a court from exercising jurisdiction over:

3101 (a) a contempt proceeding for a defendant under Title 78B, Chapter 6, Part 3,  
3102 Contempt; or

3103 (b) enforcement of a civil accounts receivable or a civil judgment of restitution.

3104 Section 70. Section **77-19-10** is amended to read:

3105 **77-19-10. Judgment of death -- Location and procedures for execution.**

3106 (1) The executive director of the Department of Corrections or a designee shall ensure  
3107 that the method of judgment of death specified in the warrant or as required under Section  
3108 [~~77-18-5.5~~] [77-18-113](#) is carried out at a secure correctional facility operated by the department  
3109 and at an hour determined by the department on the date specified in the warrant.

3110 (2) When the judgment of death is to be carried out by lethal intravenous injection, the  
3111 executive director of the department or a designee shall select two or more persons trained in  
3112 accordance with accepted medical practices to administer intravenous injections, who shall  
3113 each administer a continuous intravenous injection, one of which shall be of a lethal quantity  
3114 of:

3115 (a) sodium thiopental; or

3116 (b) other equally or more effective substance sufficient to cause death.

3117 (3) If the judgment of death is to be carried out by firing squad under Subsection  
3118 [~~77-18-5.5~~] [77-18-113](#)(2), (3), or (4) the executive director of the department or a designee  
3119 shall select a five-person firing squad of peace officers.

3120 (4) Compensation for persons administering intravenous injections and for members of  
3121 a firing squad under Subsection [~~77-18-5.5~~] [77-18-113](#)(2), (3), or (4) shall be in an amount  
3122 determined by the director of the Division of Finance.

3123 (5) Death under this section shall be certified by a physician.

3124 (6) The department shall adopt and enforce rules governing procedures for the  
3125 execution of judgments of death.

3126 Section 71. Section **77-20-4** is amended to read:

3127 **77-20-4. Bail to be posted in cash, by credit or debit card, or by written**

3128 **undertaking -- Specific monetary bail methods.**

3129 (1) (a) Except as provided in Subsection (2), the judge or magistrate shall set bail at a  
3130 single amount per case or charge.

3131 (b) Subject to Subsection (2), a defendant may choose to post the amount described in  
3132 Subsection (1)(a) by any of the following methods:

3133 (i) in cash;

3134 (ii) by written undertaking with sureties;

3135 (iii) by written undertaking without sureties, at the discretion of the judge or  
3136 magistrate; or

3137 (iv) by credit or debit card, at the discretion of the judge or bail commissioner.

3138 (2) A judge or magistrate may limit a defendant to a specific method of posting  
3139 monetary bail described in Subsection (1)(b)(i), (ii), (iii), or (iv):

3140 (a) if, after charges are filed, the defendant fails to appear in the case on a bond and the  
3141 case involves a violent offense;

3142 (b) in order to allow the defendant to voluntarily forfeit monetary bail in accordance  
3143 with Section 77-7-21 and the offense with which the defendant is charged is listed in the shared  
3144 master offense table as one for which an appearance is not mandatory;

3145 (c) if the defendant has failed to respond to a citation or summons and the offense with  
3146 which the defendant is charged is listed in the shared master offense table as one for which an  
3147 appearance is not mandatory;

3148 (d) if a warrant is issued for the defendant solely for failure to pay a [~~criminal judgment~~  
3149 ~~account receivable, as defined in Section 77-32a-101~~] criminal accounts receivable, as defined  
3150 in Section 77-32b-102, and the defendant's monetary bail is limited to the amount owed; or

3151 (e) if a court has entered a judgment of bond forfeiture under Section 77-20b-104 in  
3152 any case involving the defendant.

3153 (3) Monetary bail may not be accepted without receiving in writing at the time the  
3154 monetary bail is posted the current mailing address, telephone number, and email address of  
3155 the surety.

3156 (4) Monetary bail paid by debit or credit card, less the fee charged by the financial  
3157 institution, shall be tendered to the courts.

3158 (5) Monetary bail refunded by the court may be refunded by credit to the debit or credit

3159 card, or cash. The amount refunded shall be the full amount received by the court under  
3160 Subsection (4), which may be less than the full amount of the monetary bail set by the court.

3161 (6) Before refunding monetary bail that is posted by the defendant in cash, by credit  
3162 card, or by debit card, the court may apply the amount posted toward [~~accounts receivable, as~~  
3163 ~~defined in Section 77-32a-101~~] a criminal accounts receivable, as defined in Section  
3164 77-32b-102, that [~~are~~] is owed by the defendant in the priority set forth in Section [~~77-38a-404~~]  
3165 77-38b-304.

3166 Section 72. Section **77-20b-101** is amended to read:

3167 **77-20b-101. Entry of nonappearance -- Notice to surety -- Release of surety on**  
3168 **failure of timely notice.**

3169 (1) If a defendant who has posted bail fails to appear before the appropriate court as  
3170 required, the court shall within 30 days of the failure to appear issue a bench warrant that  
3171 includes the original case number. The court shall also direct that the surety or surety insurer  
3172 be given notice of the nonappearance. The clerk of the court shall:

3173 (a) email notice of nonappearance to the surety or surety insurer at the email address  
3174 provided on the bond;

3175 (b) email a copy of the notice sent under Subsection (1)(a) to the prosecutor's office;  
3176 and

3177 (c) ensure that the name, address, business email address, and telephone number of the  
3178 surety, its agent, or surety insurer as listed on the bond is stated on the bench warrant.

3179 (2) The prosecutor may email notice of nonappearance to the address of the surety or  
3180 surety insurer as listed on the bond within 37 days after the date of the defendant's failure to  
3181 appear.

3182 (3) If notice of nonappearance is not emailed to a surety or surety insurer as listed on  
3183 the bond, other than the defendant, in accordance with Subsection (1) or (2), the surety or  
3184 surety insurer and its bond producer are relieved of further obligation under the bond if the  
3185 surety or surety insurer have listed their current name and email addresses on the bond in the  
3186 court's file.

3187 (4) (a) (i) If a defendant appears in court within 30 days after a missed, scheduled court  
3188 appearance, the court may reinstate the bond without further notice to the surety or surety  
3189 insurer.

3190 (ii) If the defendant, while in custody, appears on the case for which the bond was  
3191 posted, the court may not reinstate the bond without the consent of the bond company.

3192 (b) If a defendant fails to appear within 30 days after a scheduled court appearance, the  
3193 court may not reinstate the bond without the consent of the surety or surety insurer.

3194 (c) If the defendant is arrested and booked into a county jail booking facility pursuant  
3195 to a warrant for failure to appear on the original charges and the court is notified of the arrest,  
3196 or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of  
3197 judgment of forfeiture, the court shall exonerate the bond.

3198 (d) Unless the court makes a finding of good cause why the bond should not be  
3199 exonerated, ~~it~~ the court shall exonerate the bond if:

3200 (i) the surety or surety insurer has delivered the defendant to the county jail booking  
3201 facility in the county where the original charge or charges are pending;

3202 (ii) the defendant has been released on a bond secured from a subsequent surety or  
3203 surety insurer for the original charge and the failure to appear;

3204 (iii) after an arrest, the defendant has escaped from jail or has been released on the  
3205 defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail  
3206 capacity, or by a sheriff's release under Section [17-22-5.5](#);

3207 (iv) the surety or surety insurer has transported or agreed to pay for the transportation  
3208 of the defendant from a location outside of the county back to the county where the original  
3209 charge is pending, and the payment is in an amount equal to ~~[government transportation  
3210 expenses listed in Section [76-3-201](#)]~~ the cost of government transportation under Section  
3211 [76-3-201](#); or

3212 (v) the surety or surety insurer demonstrates by a preponderance of the evidence that:

3213 (A) at the time the surety or surety insurer issued the bond, it had made reasonable  
3214 efforts to determine that the defendant was legally present in the United States;

3215 (B) a reasonable person would have concluded, based on the surety's or surety insurer's  
3216 determination, that the defendant was legally present in the United States; and

3217 (C) the surety or surety insurer has failed to bring the defendant before the court  
3218 because the defendant is in federal custody or has been deported.

3219 (e) Under circumstances not otherwise provided for in this section, the court may  
3220 exonerate the bond if it finds that the prosecutor has been given reasonable notice of a surety's



3221 or surety insurer's motion and there is good cause for the bond to be exonerated.

3222 (f) If a surety's or surety insurer's bond has been exonerated under this section and the  
 3223 surety or surety insurer remains liable for the cost of transportation of the defendant, the surety  
 3224 or surety insurer may take custody of the defendant for the purpose of transporting the  
 3225 defendant to the jurisdiction where the charge is pending.

3226 Section 73. Section ~~77-27-1~~ is amended to read:

3227 **77-27-1. Definitions.**

3228 As used in this chapter:

3229 (1) "Appearance" means any opportunity to address the board, a board member, a  
 3230 panel, or hearing officer, including an interview.

3231 (2) "Board" means the Board of Pardons and Parole.

3232 (3) (a) "Case action plan" means a document developed by the Department of  
 3233 Corrections that identifies the program priorities for the treatment of the offender~~[-including]~~.

3234 (b) "Case action plan" includes the criminal risk factors as determined by a risk and  
 3235 needs assessment conducted by the department.

3236 (4) "Commission" means the State Commission on Criminal and Juvenile Justice  
 3237 created in Section 63M-7-201.

3238 (5) "Commutation" is the change from a greater to a lesser punishment after  
 3239 conviction.

3240 (6) "Criminal accounts receivable" means the same as that term is defined in Section  
 3241 77-32b-102.

3242 ~~[(6)]~~ (7) "Criminal risk factors" means a person's characteristics and behaviors that:

3243 (a) affect that person's risk of engaging in criminal behavior; and

3244 (b) are diminished when addressed by effective treatment, supervision, and other  
 3245 support resources resulting in reduced risk of criminal behavior.

3246 ~~[(7)]~~ (8) "Department" means the Department of Corrections.

3247 ~~[(8)]~~ (9) "Expiration" ~~[occurs]~~ means when the maximum sentence has run.

3248 ~~[(9)]~~ (10) "Family" means ~~[persons]~~ any individual related to the victim as a spouse,  
 3249 child, sibling, parent, or grandparent, or the victim's legal guardian.

3250 ~~[(10)]~~ (11) "Hearing" or "full hearing" means an appearance before the board, a panel,  
 3251 a board member or hearing examiner, at which an offender or inmate is afforded an opportunity

3252 to be present and address the board~~[- and encompasses the term "full hearing."].~~

3253 ~~[(11)]~~ (12) "Location," in reference to a hearing, means the physical location at which  
3254 the board, a panel, a board member, or a hearing examiner is conducting the hearing, regardless  
3255 of the location of any person participating by electronic means.

3256 ~~[(12)]~~ (13) "Open session" means any hearing, before the board, a panel, a board  
3257 member, or a hearing examiner ~~[which], that~~ is open to the public, regardless of the location of  
3258 any person participating by electronic means.

3259 ~~[(13)]~~ (14) "Panel" means members of the board assigned by the chairperson to a  
3260 particular case.

3261 ~~[(14)]~~ (15) "Pardon" ~~[is]~~ means:

3262 (a) an act of grace that forgives a criminal conviction and restores the rights and  
3263 privileges forfeited by or because of the criminal conviction~~[- A pardon releases];~~

3264 (b) the release of an offender from the entire punishment prescribed for a criminal  
3265 offense and from disabilities that are a consequence of the criminal conviction~~[- A pardon~~  
3266 ~~reinstates]; and~~

3267 (c) the reinstatement of any civil rights lost as a consequence of conviction or  
3268 punishment for a criminal offense.

3269 ~~[(15)]~~ (16) "Parole" ~~[is]~~ means a release from imprisonment on prescribed conditions  
3270 which, if satisfactorily performed by the parolee, enables the parolee to obtain a termination of  
3271 ~~[his]~~ the parolee's sentence.

3272 (17) "Payment schedule" means the same as that term is defined in Section  
3273 77-32b-102.

3274 (18) "Pecuniary damages" means the same as that term is defined in Section  
3275 77-38b-102.

3276 ~~[(16)]~~ (19) "Probation" ~~[is]~~ means an act of grace by the court suspending the  
3277 imposition or execution of a convicted offender's sentence upon prescribed conditions.

3278 (20) "Remit" or "remission" means the same as that term is defined in Section  
3279 77-32b-102.

3280 ~~[(17)]~~ ~~"Reprieve or respite" is]~~

3281 (21) "Reprieve" or "respite" means the temporary suspension of the execution of the  
3282 sentence.

3283 (22) "Restitution" means the same as that term is defined in Section 77-38b-102.

3284 ~~[(18)]~~ (23) "Termination" [is] means the act of discharging from parole or concluding  
 3285 the sentence of imprisonment [prior to] before the expiration of the sentence.

3286 ~~[(19)]~~ (24) "Victim" means:

3287 (a) a person against whom the defendant committed a felony or class A misdemeanor  
 3288 offense~~[-, and regarding which offense]~~ for which a hearing is held under this chapter; or

3289 (b) the victim's family~~[-]~~ if the victim is deceased as a result of the offense for which a  
 3290 hearing is held under this chapter.

3291 Section 74. Section 77-27-2 is amended to read:

3292 **77-27-2. Board of Pardons and Parole -- Creation -- Compensation -- Functions.**

3293 (1) (a) There is created the Board of Pardons and Parole.

3294 (b) The board shall consist of five full-time members and not more than five pro  
 3295 tempore members to be appointed by the governor with the advice and consent of the Senate in  
 3296 accordance with Title 63G, Chapter 24, Part 2, Vacancies, and as provided in this section.

3297 (c) The members of the board shall be resident citizens of the state.

3298 (d) The governor shall establish salaries for the members of the board within the salary  
 3299 range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

3300 (2) (a) (i) (A) The full-time board members shall serve terms of five years.

3301 (B) The terms of the full-time members shall be staggered so one board member is  
 3302 appointed for a term of five years on March 1 of each year.

3303 (ii) (A) The pro tempore members shall serve terms of five years, beginning on March  
 3304 1 of the year of appointment, with no more than one pro tempore member term beginning or  
 3305 expiring in the same calendar year.

3306 (B) If a pro tempore member vacancy occurs, the board may submit the names of not  
 3307 fewer than three or more than five persons to the governor for appointment to fill the vacancy.

3308 (b) All vacancies occurring on the board for any cause shall be filled by the governor  
 3309 with the advice and consent of the Senate ~~[pursuant to]~~ in accordance with this section for the  
 3310 unexpired term of the vacating member.

3311 (c) The governor may at any time remove any member of the board for inefficiency,  
 3312 neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

3313 (d) (i) A member of the board may not hold any other office in the government of the

3314 United States, this state or any other state, or of any county government or municipal  
3315 corporation within a state.

3316 (ii) A member may not engage in any occupation or business inconsistent with the  
3317 member's duties.

3318 (e) (i) A majority of the board constitutes a quorum for the transaction of business,  
3319 including the holding of hearings at any time or any location within or without the state, or for  
3320 the purpose of exercising any duty or authority of the board. [~~Action taken by a majority of the  
3321 board regarding whether parole, pardon, commutation, termination of sentence, or remission of  
3322 fines or forfeitures may be granted or restitution ordered in individual cases is deemed the  
3323 action of the board.~~]

3324 (ii) An action is deemed the action of the board if the action is taken by a majority of  
3325 the board regarding whether:

3326 (A) parole, pardon, commutation, or termination of a sentence is granted in an  
3327 offender's case;

3328 (B) remission of a criminal accounts receivable, or a fines or forfeiture, is granted in an  
3329 offender's case; or

3330 (C) an offender's payment schedule for a criminal accounts receivable is modified.

3331 (iii) A majority vote of the five full-time members of the board is required for adoption  
3332 of rules or policies of general applicability as provided by statute. [~~However,~~]

3333 (iv) Notwithstanding Subsection (2)(e)(iii), a vacancy on the board does not impair the  
3334 right of the remaining board members to exercise any duty or authority of the board as long as a  
3335 majority of the board remains.

3336 (v) A board member shall comply with the conflict of interest provisions described in  
3337 Title 63G, Chapter 24, Part 3, Conflicts of Interest.

3338 (f) (i) Any investigation, inquiry, or hearing that the board has authority to undertake or  
3339 hold may be conducted by any board member or an examiner appointed by the board.

3340 (ii) When [~~any of these actions are~~] an action under Subsection (2)(f)(i) is approved  
3341 and confirmed by the board and filed in [its] the board's office, [they are] the action is  
3342 considered to be the action of the board and [have] has the same effect as if originally made by  
3343 the board.

3344 (g) (i) When a full-time board member is absent or in other extraordinary

3345 circumstances, the chair may, as dictated by public interest and efficient administration of the  
3346 board, assign a pro tempore member to act in the place of a full-time member.

3347 (ii) Pro tempore members shall receive a per diem rate of compensation as established  
3348 by the Division of Finance and all actual and necessary expenses incurred in attending to  
3349 official business.

3350 (h) The chair may request staff and administrative support as necessary from the  
3351 [~~Department of Corrections~~] department.

3352 (3) (a) Except as provided in Subsection (3)(b), the [~~Commission on Criminal and~~  
3353 ~~Juvenile Justice~~] commission shall:

3354 (i) recommend five applicants to the governor for a full-time member appointment to  
3355 the [~~Board of Pardons and Parole~~] board; and

3356 (ii) consider applicants' knowledge of the criminal justice system, state and federal  
3357 criminal law, judicial procedure, corrections policies and procedures, and behavioral sciences.

3358 (b) The procedures and requirements of Subsection (3)(a) do not apply if the governor  
3359 appoints a sitting board member to a new term of office.

3360 (4) (a) (i) The board shall appoint an individual to serve as [~~its~~] the board's mental  
3361 health adviser and may appoint other staff necessary to aid [~~it~~] the board in fulfilling [~~its~~] the  
3362 board's responsibilities under Title 77, Chapter 16a, Commitment and Treatment of Persons  
3363 with a Mental Illness.

3364 (ii) The adviser shall prepare reports and recommendations to the board on all persons  
3365 adjudicated as guilty with a mental illness, in accordance with Title 77, Chapter 16a,  
3366 Commitment and Treatment of Persons with a Mental Illness.

3367 (b) The mental health adviser shall possess the qualifications necessary to carry out the  
3368 duties imposed by the board and may not be employed by the [~~Department of Corrections~~]  
3369 department or the Utah State Hospital.

3370 (i) The [~~Board of Pardons and Parole~~] board may review outside employment by the  
3371 mental health advisor.

3372 (ii) The [~~Board of Pardons and Parole~~] board shall develop rules governing  
3373 employment with entities other than the board by the mental health advisor for the purpose of  
3374 prohibiting a conflict of interest.

3375 (c) The mental health adviser shall:

3376 (i) act as liaison for the board with the Department of Human Services and local mental  
3377 health authorities;

3378 (ii) educate the members of the board regarding the needs and special circumstances of  
3379 persons with a mental illness in the criminal justice system;

3380 (iii) in cooperation with the ~~[Department of Corrections]~~ department, monitor the  
3381 status of persons in the prison who have been found guilty with a mental illness;

3382 (iv) monitor the progress of other persons under the board's jurisdiction who have a  
3383 mental illness;

3384 (v) conduct hearings as necessary in the preparation of reports and recommendations;  
3385 and

3386 (vi) perform other duties as assigned by the board.

3387 Section 75. Section ~~77-27-5~~ is amended to read:

3388 **77-27-5. Board of Pardons and Parole authority.**

3389 (1) (a) ~~[The Board of Pardons and Parole]~~ Subject to this chapter and other laws of the  
3390 state, and except for a conviction for treason or impeachment, the board shall determine by  
3391 majority decision when and under what conditions ~~[any convictions, except for treason or~~  
3392 ~~impeachment, may be pardoned or commuted, subject to this chapter and other laws of the~~  
3393 ~~state.]~~ an offender's conviction may be pardoned or commuted.

3394 (b) The Board of Pardons and Parole shall determine by majority decision when and  
3395 under what conditions~~[- subject to this chapter and other laws of the state, individuals~~  
3396 ~~committed to serve sentences at penal or correctional facilities that are under the jurisdiction of~~  
3397 ~~the Department of Corrections, except treason or impeachment convictions or as otherwise~~  
3398 ~~limited by law, may be released upon parole, ordered to pay restitution, or have their fines,~~  
3399 ~~forfeitures, or restitution remitted, or their sentences terminated.]~~ an offender committed to  
3400 serve a sentence at a penal or correctional facility, which is under the jurisdiction of the  
3401 department, may:

3402 (i) be released upon parole;

3403 (ii) have a fine or forfeiture remitted;

3404 (iii) have the offender's criminal accounts receivable remitted in accordance with  
3405 Section [77-32b-105](#) or [77-32b-106](#);

3406 (iv) have the offender's payment schedule modified in accordance with Section

3407 [77-32b-103](#); or

3408 (v) have the offender's sentence terminated.

3409 (c) (i) The board may sit together or in panels to conduct hearings.

3410 (ii) The chair shall appoint members to the panels in any combination and in  
3411 accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative  
3412 Rulemaking Act, by the board.

3413 (iii) The chair may participate on any panel and when doing so is chair of the panel.

3414 (iv) The chair of the board may designate the chair for any other panel.

3415 ~~[(d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole,~~  
3416 ~~pardon, or commutation granted or sentence terminated, except after a full hearing before the~~  
3417 ~~board or the board's appointed examiner in open session. Any action taken under this~~  
3418 ~~subsection]~~

3419 (d) (i) Unless there is a hearing before the board, or the board's appointed examiner, in  
3420 an open session, the board may not:

3421 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts  
3422 receivable;

3423 (B) release the offender on parole; or

3424 (C) commute, pardon, or terminate an offender's sentence.

3425 (ii) An action taken under this Subsection (1) other than by a majority of the board  
3426 shall be affirmed by a majority of the board.

3427 (e) A commutation or pardon may be granted only after a full hearing before the board.

3428 ~~[(f) The board may determine restitution as provided in Section [77-27-6](#) and~~  
3429 ~~Subsection [77-38a-302\(5\)\(d\)\(iii\)\(A\)](#).]~~

3430 (2) (a) In the case of any hearings, timely prior notice of the time and location of the  
3431 hearing shall be given to the offender.

3432 (b) The county or district attorney's office responsible for prosecution of the case, the  
3433 sentencing court, and law enforcement officials responsible for the defendant's arrest and  
3434 conviction shall be notified of any board hearings through the board's website.

3435 (c) Whenever possible, the victim or the victim's representative, if designated, shall be  
3436 notified of original hearings and any hearing after that if notification is requested and current  
3437 contact information has been provided to the board.

3438 (d) (i) Notice to the victim or the victim's representative shall include information  
3439 provided in Section 77-27-9.5, and any related rules made by the board under that section.[  
3440 This information]

3441 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are  
3442 reasonable for the lay person to understand.

3443 [~~(3) Decisions of the board in cases involving paroles, pardons, commutations or~~  
3444 ~~terminations of sentence, restitution, or remission of fines or forfeitures are final and are not~~  
3445 ~~subject to judicial review.~~]

3446 (3) (a) A decision by the board is final and not subject to judicial review if the decision  
3447 is regarding:

3448 (i) a pardon, parole, commutation, or termination of an offender's sentence;

3449 (ii) the modification of an offender's payment schedule for restitution; and

3450 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

3451 (b) Nothing in this section prevents the obtaining or enforcement of a civil judgment[;  
3452 including restitution as provided in Section 77-27-6].

3453 (4) (a) This chapter may not be construed as a denial of or limitation of the governor's  
3454 power to grant respite or reprieves in all cases of convictions for offenses against the state,  
3455 except treason or conviction on impeachment. [~~However,~~]

3456 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the  
3457 next session of the Board of Pardons and Parole [~~and the board, at that session,~~].

3458 (c) At the next session of the board, the board:

3459 (i) shall continue or terminate the respite or reprieve[~~or it~~]; or

3460 (ii) may commute the punishment[;] or pardon the offense as provided.

3461 (d) In the case of conviction for treason, the governor may suspend execution of the  
3462 sentence until the case is reported to the Legislature at [~~its~~] the Legislature's next session.

3463 (e) The Legislature shall [~~then either~~] pardon or commute the sentence[~~or direct its~~  
3464 ~~execution~~] or direct the sentence's execution.

3465 (5) In determining when, where, and under what conditions an offender serving a  
3466 sentence may be [~~paroled, pardoned, have restitution ordered, or have the offender's fines or~~  
3467 ~~forfeitures remitted, or the~~] paroled or pardoned, have a fine or forfeiture remitted, have the  
3468 offender's criminal accounts receivable remitted, or have the offender's sentence commuted or



3469 terminated, the board shall:

3470 (a) ~~[consider whether the offender has made or is prepared to make restitution as~~  
3471 ~~ascertained in accordance with the standards and procedures of Section 77-38a-302, as a~~  
3472 ~~condition of any parole, pardon, remission of fines or forfeitures, or commutation or~~  
3473 ~~termination of sentence; and]~~ consider whether the offender has made restitution ordered by the  
3474 court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole,  
3475 pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or  
3476 termination of the offender's sentence; and

3477 (b) develop and use a list of criteria for making determinations under this Subsection  
3478 (5), except that the board shall remit an offender's criminal accounts receivable in accordance  
3479 with Section 77-32b-105 or 77-32b-106.

3480 (6) In determining whether parole may be terminated, the board shall consider:

3481 (a) the offense committed by the parolee; and

3482 (b) the parole period ~~[as provided in]~~ under Section 76-3-202, and in accordance with  
3483 Section 77-27-13.

3484 (7) For ~~[offenders]~~ an offender placed on parole after December 31, 2018, the board  
3485 shall terminate parole in accordance with the supervision length guidelines established by the  
3486 Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are  
3487 consistent with the requirements of the law.

3488 Section 76. Section 77-27-6.1 is enacted to read:

3489 **77-27-6.1. Payment of a criminal accounts receivable -- Failure to enter an order**  
3490 **for restitution or create a criminal accounts receivable -- Modification of a criminal**  
3491 **accounts receivable -- Order for recovery of costs or pecuniary damages.**

3492 (1) When an offender is committed to prison, the board may require the offender to pay  
3493 the offender's criminal accounts receivable ordered by the court during the period of  
3494 incarceration or parole supervision.

3495 (2) If the board orders the release of an offender on parole and there is an unpaid  
3496 balance on the offender's criminal account receivable, the board may modify the payment  
3497 schedule entered by the court for the offender's criminal accounts receivable in accordance with  
3498 Section 77-32b-105.

3499 (3) (a) If the sentencing court has not entered an order of restitution for an offender

3500 who is under the jurisdiction of the board, the board shall refer the offender's case to the  
 3501 sentencing court, within the time periods described in Subsection 77-38b-205(6), to enter an  
 3502 order for restitution for the offender in accordance with Section 77-38b-205.

3503 (b) If the sentencing court has not entered an order to establish a criminal accounts  
 3504 receivable for an offender who is under the jurisdiction of the board, the board shall refer the  
 3505 offender's case to the sentencing court, within the time periods described in Subsection  
 3506 77-38b-205(6), to enter an order to establish a criminal accounts receivable for the offender in  
 3507 accordance with Section 77-32b-103.

3508 (4) (a) If there is a challenge to an offender's criminal accounts receivable, the board  
 3509 shall refer the offender's case to the sentencing court, within the time periods described in  
 3510 Subsection 77-38b-205(6), to resolve the challenge to the criminal accounts receivable.

3511 (b) If a sentencing court modifies a criminal accounts receivable after the offender is  
 3512 committed to prison, the sentencing court shall provide notice to the board of the modification.

3513 (5) The board may enter an order to recover any cost incurred by the department, or the  
 3514 state or any other agency, arising out of the offender's needs or conduct.

3515 Section 77. Section 77-27-11 is amended to read:

3516 **77-27-11. Revocation of parole.**

3517 (1) The board may revoke the parole of any individual who is found to have violated  
 3518 any condition of the individual's parole.

3519 (2) (a) If a parolee is confined by the [~~Department of Corrections~~] department or any  
 3520 law enforcement official for a suspected violation of parole, the [~~Department of Corrections~~]  
 3521 department:

3522 (i) shall immediately report the alleged violation to the board, by means of an incident  
 3523 report[;]; and

3524 (ii) make any recommendation regarding the incident.

3525 (b) [~~No parolee may be~~] A parolee may not be held for a period longer than 72 hours,  
 3526 excluding weekends and holidays, without first obtaining a warrant.

3527 (3) Any member of the board may:

3528 (a) issue a warrant based upon a certified warrant request to a peace officer or other  
 3529 persons authorized to arrest, detain, and return to actual custody a parolee[~~, and may~~]; and

3530 (b) upon arrest [~~or otherwise direct the Department of Corrections to~~] of the parolee,

3531 determine, or direct the department to determine, if there is probable cause to believe that the  
3532 parolee has violated the conditions of the parolee's parole.

3533 (4) Upon a finding of probable cause, a parolee may be further detained or imprisoned  
3534 again pending a hearing by the board or [its] the board's appointed examiner.

3535 (5) (a) The board or [its] the board's appointed examiner shall conduct a hearing on the  
3536 alleged violation, and the parolee shall have written notice of the time and location of the  
3537 hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

3538 (b) The board or [its] the board's appointed examiner shall provide the parolee the  
3539 opportunity:

3540 (i) to be present;

3541 (ii) to be heard;

3542 (iii) to present witnesses and documentary evidence;

3543 (iv) to confront and cross-examine adverse witnesses, absent a showing of good cause  
3544 for not allowing the confrontation; and

3545 (v) to be represented by counsel when the parolee is mentally incompetent or pleading  
3546 not guilty.

3547 (c) (i) If heard by an appointed examiner, the examiner shall make a written decision  
3548 which shall include a statement of the facts relied upon by the examiner in determining the  
3549 guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the  
3550 alleged violation occurred.

3551 (ii) The appointed examiner shall then refer the case to the board for disposition.

3552 [~~(d) Final decisions shall be reached by majority vote of the members of the board~~  
3553 ~~sitting and the parolee shall be promptly notified in writing of the board's findings and~~  
3554 ~~decision.~~]

3555 [~~(6) (a) Parolees found to have violated the conditions of parole may, at the discretion~~  
3556 ~~of the board, be returned to parole, have restitution ordered, or be imprisoned again as~~  
3557 ~~determined by the board, not to exceed the maximum term, or be subject to any other~~  
3558 ~~conditions the board may impose within its discretion.~~]

3559 (d) (i) A final decision shall be reached by a majority vote of the sitting members of the  
3560 board.

3561 (ii) A parolee shall be promptly notified in writing of the board's findings and decision.

3562 (6) (a) If a parolee is found to have violated the terms of parole, the board, at the  
3563 board's discretion, may:

3564 (i) return the parolee to parole;

3565 (ii) modify the payment schedule for the parolee's criminal accounts receivable in  
3566 accordance with Section [77-32b-105](#);

3567 (iii) order the parolee to pay pecuniary damages that are proximately caused by a  
3568 defendant's violation of the terms of the defendant's parole;

3569 (iv) order the parolee to be imprisoned, but not to exceed the maximum term of  
3570 imprisonment for the parolee's sentence; or

3571 (v) order any other conditions for the parolee.

3572 (b) If the board returns the parolee to parole, the length of parole may not be for a  
3573 period of time that exceeds the length of the parolee's maximum sentence.

3574 (c) If the board revokes parole for a violation and orders incarceration, the board shall  
3575 impose a period of incarceration consistent with the guidelines under Subsection  
3576 [63M-7-404\(5\)](#).

3577 (d) The following periods of time constitute service of time toward the period of  
3578 incarceration imposed under Subsection (6)(c):

3579 (i) time served in jail by a parolee awaiting a hearing or decision concerning revocation  
3580 of parole; and

3581 (ii) time served in jail by a parolee due to a violation of parole under Subsection  
3582 [64-13-6\(2\)](#).

3583 Section 78. Section **77-30-24** is amended to read:

3584 **77-30-24. Payment of expenses -- Extradition costs.**

3585 (1) (a) When the punishment of [~~the crime~~] an offense is the confinement of the  
3586 defendant in prison, the expenses shall be paid out of the state treasury on the certificate of the  
3587 governor and warrant of the auditor[~~, and in~~].

3588 (b) In all other cases [~~they~~], the expenses for confinement shall be paid out of the  
3589 treasury of the county where the [~~crime~~] offense is alleged to have been committed.

3590 (c) The expenses shall be the fees paid to the officers of the state on whose governor  
3591 the requisition is made.

3592 [~~(2) Any person who is returned to the state under this chapter, and who is convicted~~

3593 of, or pleads guilty or no contest to, the criminal charge or to a lesser criminal charge may,  
 3594 under Sections ~~76-3-201, 77-27-5, and 77-27-6~~, be required to make restitution to the  
 3595 appropriate governmental entities for the costs of his extradition.]

3596 (2) If a defendant is returned to the state under this chapter and the defendant is  
 3597 convicted of, or pleads guilty or no contest to, the offense or to a lesser offense, the defendant  
 3598 may be required to pay the costs of extradition to the appropriate governmental entity as  
 3599 described in Subsection 76-3-201(4)(c).

3600 Section 79. Section ~~77-32b-101~~ is enacted to read:

3601 **CHAPTER 32b. CRIMINAL ACCOUNTS RECEIVABLE AND COSTS**  
 3602 **77-32b-101. Title.**

3603 This chapter is known as "Criminal Accounts Receivable and Costs."

3604 Section 80. Section ~~77-32b-102~~, which is renumbered from Section 77-32a-101 is  
 3605 renumbered and amended to read:

3606 ~~[77-32a-101].~~ **77-32b-102. Definitions.**

3607 As used in this chapter:

3608 ~~[(1) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,~~  
 3609 ~~surcharges, costs, interest, penalties, restitution to victims, third party claims, claims,~~  
 3610 ~~reimbursement of a reward, and damages.]~~

3611 ~~[(2) "Criminal judgment accounts receivable" means any amounts owed by a criminal~~  
 3612 ~~defendant arising from a criminal judgment that has not been paid. This includes fines,~~  
 3613 ~~surcharges, costs, interest, and restitution.]~~

3614 (1) "Board" means the Board of Pardons and Parole created in Section 77-27-2.

3615 (2) (a) "Civil accounts receivable" means any amount of the criminal accounts  
 3616 receivable that is owed by the defendant that has not been paid on or before the day on which:

3617 (i) the defendant's sentence is terminated; or

3618 (ii) the court enters an order for a civil accounts receivable under Subsection

3619 77-18-114(1) or (2).

3620 (b) "Civil accounts receivable" does not include any amount of the criminal accounts  
 3621 receivable that is owed by the defendant for restitution.

3622 (3) "Civil judgment of restitution" means any amount of the criminal accounts  
 3623 receivable that is owed by the defendant for restitution that has not been paid on or before the

3624 day on which the defendant's sentence is terminated.

3625 (4) (a) "Criminal accounts receivable" means any amount owed by a defendant that  
3626 arises from a criminal judgment until:

3627 (i) the defendant's sentence terminates;

3628 (ii) the court enters an order for a civil accounts receivable under Subsection  
3629 77-18-114(1) or (2); or

3630 (iii) if the court requires the defendant, upon termination of the probation period for the  
3631 defendant, to continue to make payments on the criminal accounts as described in Subsection  
3632 77-18-105(8), the defendant's sentence expires.

3633 (b) "Criminal accounts receivable" includes unpaid fees, forfeitures, surcharges, costs,  
3634 interest, penalties, restitution, third party claims, claims, reimbursement of a reward, and  
3635 damages.

3636 [~~(3)~~ (5) "Default" means [an account receivable] a civil accounts receivable, a civil  
3637 judgment of restitution, or a criminal accounts receivable that is overdue by at least 90 days.

3638 [~~(4)~~ (6) "Delinquent" means [an account receivable or installment payment] a civil  
3639 accounts receivable, a civil judgment of restitution, or a criminal account receivable that is  
3640 overdue by more than 28 days but less than 90 days.

3641 (7) "Payment schedule" means the amount that is be paid by a defendant in  
3642 installments, or by a certain date, to satisfy a criminal accounts receivable for the defendant.

3643 (8) "Remit" or "remission" means to forgive or to excuse, in whole or in part, any  
3644 unpaid amount of a criminal accounts receivable.

3645 (9) "Restitution" means the same as that term is defined in Section 77-38b-102.

3646 Section 81. Section **77-32b-103** is enacted to read:

3647 **77-32b-103. Establishment of a criminal account receivable -- Responsibility --**  
3648 **Payment schedule -- Delinquency or default.**

3649 (1) At the time of sentencing or acceptance of a plea in abeyance, the court shall enter  
3650 an order to establish a criminal accounts receivable for the defendant.

3651 (2) After establishing a criminal accounts receivable for a defendant, the court shall:

3652 (a) if a prison sentence is imposed and not suspended for the defendant:

3653 (i) accept any payment for the criminal accounts receivable that is tendered on the date  
3654 of sentencing; and

- 3655 (ii) transfer the responsibility of receiving, distributing, and processing payments for  
3656 the criminal accounts receivable to the Office of State Debt Collection; and
- 3657 (b) for all other cases:
- 3658 (i) retain the responsibility for receiving, processing, and distributing payments for the  
3659 criminal accounts receivable until the court enters a civil accounts receivable or civil judgment  
3660 of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and
- 3661 (ii) record each payment by the defendant on the case docket.
- 3662 (3) (a) Upon entering an order for a criminal accounts receivable, the court shall  
3663 establish a payment schedule for the defendant to make payments towards the criminal  
3664 accounts receivable.
- 3665 (b) In establishing the payment schedule for the defendant, the court shall consider:
- 3666 (i) the needs of the victim if the criminal accounts receivable includes an order for  
3667 restitution under Section 77-38b-205;
- 3668 (ii) the financial resources of the defendant, as disclosed in the financial declaration  
3669 under Section 77-38b-204;
- 3670 (iii) the burden that the payment schedule will impose on the defendant regarding the  
3671 other reasonable obligations of the defendant;
- 3672 (iv) the ability of the defendant to pay restitution on an installment basis or on other  
3673 conditions fixed by the court;
- 3674 (v) the rehabilitative effect on the defendant of the payment of restitution and method  
3675 of payment; and
- 3676 (vi) any other circumstance that the court determines is relevant.
- 3677 (4) A payment schedule for a criminal accounts receivable does not limit the ability of  
3678 a judgment creditor to pursue collection by any means allowable by law.
- 3679 (5) If the court orders restitution under Section 77-38b-205, or makes another financial  
3680 decision, after sentencing that increases the total amount owed in a defendant's case, the  
3681 defendant's criminal accounts receivable balance shall be adjusted to include any new amount  
3682 ordered by the court.
- 3683 Section 82. Section **77-32b-104**, which is renumbered from Section 77-32a-107 is  
3684 renumbered and amended to read:
- 3685 ~~[77-32a-107]~~. **77-32b-104. Costs -- What constitute costs -- Ability to pay.**

3686 ~~[Costs]~~ (1) Except for a cost described in Subsection [76-3-201\(4\)](#), costs shall be  
3687 limited to expenses ~~[specially]~~ incurred by the state or any political subdivision ~~[in]~~ of the state  
3688 for investigating, searching for, apprehending, and prosecuting the defendant, including:

3689 (a) attorney fees of counsel assigned to represent the defendant~~[, and]~~;

3690 (b) investigators' fees~~[-Costs may]~~; or

3691 (c) except for a monetary reward that is paid to a codefendant, an accomplice, or a  
3692 bounty hunter, a monetary reward that is:

3693 (i) offered to the public in exchange for information that would lead to the  
3694 apprehension and conviction of the defendant; and

3695 (ii) paid to a person who provided information that led to the apprehension and  
3696 conviction of the defendant.

3697 (2) A cost may not include:

3698 (a) expenses inherent in providing a constitutionally guaranteed trial ~~[or]~~;

3699 (b) expenditures in connection with the maintenance and operation of government  
3700 agencies that must be made by the public irrespective of specific violations of law~~[-Costs may~~  
3701 not include]; or

3702 (c) attorney fees for prosecuting attorneys.

3703 (3) The court may not order a defendant to pay a cost, unless there is evidence that the  
3704 defendant is, or will be, able to pay the cost.

3705 (4) In determining the amount of a cost that a defendant is ordered to pay, the court  
3706 shall take into account:

3707 (a) the financial resources of the defendant;

3708 (b) the nature of the burden that payment of the cost will impose; and

3709 (c) that restitution is prioritized over any cost.

3710 Section 83. Section **77-32b-105** is enacted to read:

3711 **77-32b-105. Petition for remittance or modification of a criminal accounts**  
3712 **receivable before termination of a sentence.**

3713 (1) At any time before a defendant's sentence terminates, the defendant may petition  
3714 the sentencing court to:

3715 (a) correct an error in a criminal accounts receivable;

3716 (b) modify the payment schedule for the defendant's criminal accounts receivable in



3717 accordance with this section if the defendant is not under the jurisdiction of the board; or

3718 (c) remit, in whole or in part, an unpaid amount of the defendant's criminal accounts  
3719 receivable that is not the principal amount owed for restitution in accordance with this section.

3720 (2) If a defendant files a petition under Subsection (1), and it appears to the satisfaction  
3721 of the sentencing court that payment of an unpaid amount of a criminal accounts receivable  
3722 will impose manifest hardship on the defendant, or the defendant's family, the court may:

3723 (a) if the criminal accounts receivable is not delinquent or in default, remit, in whole or  
3724 in part, the unpaid amount of the criminal accounts receivable that is not the principal amount  
3725 owed for restitution; or

3726 (b) regardless of whether the criminal accounts receivable is delinquent or in default:

3727 (i) require the defendant to pay the criminal accounts receivable, or a specified amount  
3728 of the criminal accounts receivable, by a certain date;

3729 (ii) modify the payment schedule for the criminal accounts receivable in accordance  
3730 with the factors described in Subsection 77-32b-103(3)(b) if the defendant has demonstrated  
3731 that the criminal accounts receivable will impose a manifest hardship due to changed  
3732 circumstances or new evidence that justifies modifying the payment schedule; or

3733 (iii) allow the defendant to satisfy an unpaid amount of the criminal accounts  
3734 receivable that is not the principal amount owed for restitution with proof of compensatory  
3735 service completed by the defendant at a rate of credit not less than \$10 for each hour of  
3736 compensatory service.

3737 (3) (a) If a defendant is under the jurisdiction of the board, the defendant may petition  
3738 the board, at any time before the defendant's sentence terminates, to modify the payment  
3739 schedule for the defendant's criminal accounts receivable.

3740 (b) If a defendant files a petition under Subsection (3)(a), the board may modify the  
3741 payment schedule for the criminal accounts receivable in accordance with the factors described  
3742 in Subsection 77-32b-103(3)(b) if the defendant has demonstrated that the criminal accounts  
3743 receivable will impose a manifest hardship to the defendant, or the defendant's family, due to  
3744 changed circumstances or new evidence that justifies modifying the payment schedule.

3745 Section 84. Section 77-32b-106 is enacted to read:

3746 **77-32b-106. Petition for remittance of an unpaid balance of a criminal accounts**  
3747 **receivable upon termination of a sentence.**

3748 (1) (a) If a defendant is not under the jurisdiction of the board, and if any amount of a  
3749 defendant's criminal accounts receivable is unpaid at the termination of the defendant's  
3750 sentence, the defendant may petition the sentencing court, within 90 days after the day on  
3751 which the sentence is terminated, to remit, in whole or in part, the unpaid amount of the  
3752 criminal accounts receivable.

3753 (b) If a defendant is under the jurisdiction of the board, and if any amount of the  
3754 defendant's criminal accounts receivable is unpaid at the termination of the defendant's  
3755 sentence, the defendant may petition the board within 90 days after the day on which the  
3756 sentence is terminated, to remit, in whole or in part, the unpaid amount of the criminal accounts  
3757 receivable.

3758 (2) (a) If a petition is filed under Subsection (1), a hearing shall be held, unless the  
3759 court or the board determines that the petition under Subsection (1) is frivolous or the petition  
3760 is uncontested.

3761 (b) If a hearing is held under Subsection (2)(a), and the court, or the board, finds by a  
3762 preponderance of the evidence that the factors listed in Subsection (3) weigh in favor of  
3763 remitting, in whole or in part, the unpaid amount of a criminal accounts receivable, the court or  
3764 the board may remit:

3765 (i) any of the unpaid amount of the criminal accounts receivable that is not the  
3766 principal amount owed for restitution; or

3767 (ii) if the victim consents to remittance of the unpaid amount of the criminal accounts  
3768 receivable that is restitution that the defendant owes to the victim, any of the unpaid amount of  
3769 restitution that defendant owes to the victim.

3770 (c) The court, or the board, shall give the prosecuting attorney and the victim:

3771 (i) notice of a hearing on the remittance of a criminal accounts receivable; and

3772 (ii) an opportunity to be heard at the hearing.

3773 (d) Nothing in this section shall be construed to prohibit a victim from pursuing a  
3774 private action against a defendant, even if the victim consents to the remission of restitution.

3775 (3) In making a determination to remit an unpaid amount of a criminal accounts  
3776 receivable, the court, or the board, shall consider:

3777 (a) whether the defendant has made substantial and good faith efforts to make  
3778 payments on the criminal accounts receivable;

- 3779           (b) the needs of the victim;  
 3780           (c) whether the remission would further the rehabilitation of the defendant;  
 3781           (d) the ability of the defendant to continue to make payments on a civil accounts  
 3782 receivable; and  
 3783           (e) any other factor that the court or the board determines is relevant.  
 3784           (4) If any unpaid amount of a criminal accounts receivable is not remitted by the court  
 3785 or the board upon termination of the defendant's sentence, the court shall proceed with an order  
 3786 for a civil judgment of restitution and a civil accounts receivable as described in Section  
 3787 77-18-114.

3788           Section 85. Section **77-32b-107**, which is renumbered from Section 77-32a-110 is  
 3789 renumbered and amended to read:

3790           ~~[77-32a-110].~~           **77-32b-107. Verified statement of time and expenses of**  
 3791 **counsel for indigent defendants.**

3792           The court may require a verified statement of time and expenses from appointed  
 3793 counsel, or the nonprofit legal aid or other association providing counsel [~~to convicted indigent~~  
 3794 ~~defendants~~], for a convicted indigent defendant in order to establish [~~the costs, if any, which~~  
 3795 ~~will be included in the judgment~~] any cost under Section 77-32b-104 that will be included in  
 3796 the judgment.

3797           Section 86. Section **77-37-3** is amended to read:

3798           **77-37-3. Bill of rights.**

3799           (1) The bill of rights for victims and witnesses is:

3800           (a) Victims and witnesses have a right to be informed as to the level of protection from  
 3801 intimidation and harm available to them, and from what sources, as they participate in criminal  
 3802 justice proceedings as designated by Section 76-8-508, regarding witness tampering, and  
 3803 Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and  
 3804 corrections personnel have the duty to timely provide this information in a form which is useful  
 3805 to the victim.

3806           (b) Victims and witnesses, including children and their guardians, have a right to be  
 3807 informed and assisted as to their role in the criminal justice process. All criminal justice  
 3808 agencies have the duty to provide this information and assistance.

3809           (c) Victims and witnesses have a right to clear explanations regarding relevant legal

3810 proceedings; these explanations shall be appropriate to the age of child victims and witnesses.  
3811 All criminal justice agencies have the duty to provide these explanations.

3812 (d) Victims and witnesses should have a secure waiting area that does not require them  
3813 to be in close proximity to defendants or the family and friends of defendants. Agencies  
3814 controlling facilities shall, whenever possible, provide this area.

3815 (e) Victims may seek restitution or reparations, including medical costs, as provided in  
3816 Title 63M, Chapter 7, Criminal Justice and Substance Abuse, [~~and Sections 62A-7-109.5,~~  
3817 ~~77-38a-302, and 77-27-6.~~] Title 77, Chapter 38b, Crime Victims Restitution Act, and Section  
3818 78A-6-117. State and local government agencies that serve victims have the duty to have a  
3819 functional knowledge of the procedures established by the Crime Victim Reparations Board  
3820 and to inform victims of these procedures.

3821 (f) Victims and witnesses have a right to have any personal property returned as  
3822 provided in Sections 77-24a-1 through 77-24a-5. Criminal justice agencies shall expeditiously  
3823 return the property when it is no longer needed for court law enforcement or prosecution  
3824 purposes.

3825 (g) Victims and witnesses have the right to reasonable employer intercession services,  
3826 including pursuing employer cooperation in minimizing employees' loss of pay and other  
3827 benefits resulting from their participation in the criminal justice process. Officers of the court  
3828 shall provide these services and shall consider victims' and witnesses' schedules so that  
3829 activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may  
3830 request that the responsible agency intercede with employers or other parties.

3831 (h) Victims and witnesses, particularly children, should have a speedy disposition of  
3832 the entire criminal justice process. All involved public agencies shall establish policies and  
3833 procedures to encourage speedy disposition of criminal cases.

3834 (i) Victims and witnesses have the right to timely notice of judicial proceedings they  
3835 are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies  
3836 have the duty to provide these notifications. Defense counsel and others have the duty to  
3837 provide timely notice to prosecution of any continuances or other changes that may be required.

3838 (j) Victims of sexual offenses have the following rights:

3839 (i) the right to request voluntary testing for themselves for HIV infection as provided in  
3840 Section 76-5-503 and to request mandatory testing of the alleged sexual offender for HIV

3841 infection as provided in Section 76-5-502;

3842 (ii) the right to be informed whether a DNA profile was obtained from the testing of  
3843 the rape kit evidence or from other crime scene evidence;

3844 (iii) the right to be informed whether a DNA profile developed from the rape kit  
3845 evidence or other crime scene evidence has been entered into the Utah Combined DNA Index  
3846 System;

3847 (iv) the right to be informed whether there is a match between a DNA profile  
3848 developed from the rape kit evidence or other crime scene evidence and a DNA profile  
3849 contained in the Utah Combined DNA Index System, provided that disclosure would not  
3850 impede or compromise an ongoing investigation; and

3851 (v) the right to designate a person of the victim's choosing to act as a recipient of the  
3852 information provided under this Subsection (1)(j) and under Subsections (2) and (3).

3853 (k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency  
3854 communicate with the victim or the victim's designee regarding the status of DNA testing,  
3855 absent a specific request received from the victim or the victim's designee.

3856 (2) The law enforcement agency investigating a sexual offense may:

3857 (a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the  
3858 request of a victim or the victim's designee and is the designated agency to provide that  
3859 information to the victim or the victim's designee;

3860 (b) require that the victim's request be in writing; and

3861 (c) respond to the victim's request with verbal communication, written communication,  
3862 or by email, if an email address is available.

3863 (3) The law enforcement agency investigating a sexual offense has the following  
3864 authority and responsibilities:

3865 (a) If the law enforcement agency determines that DNA evidence will not be analyzed  
3866 in a case where the identity of the perpetrator has not been confirmed, the law enforcement  
3867 agency shall notify the victim or the victim's designee.

3868 (b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence  
3869 or other crime scene evidence from an unsolved sexual assault case, the law enforcement  
3870 agency shall provide written notification of that intention and information on how to appeal the  
3871 decision to the victim or the victim's designee of that intention.

3872 (ii) Written notification under this Subsection (3) shall be made not fewer than 60 days  
3873 prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

3874 (c) A law enforcement agency responsible for providing information under Subsections  
3875 (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the  
3876 victim or the victim's designee, shall advise the victim or the victim's designee of any  
3877 significant changes in the information of which the law enforcement agency is aware.

3878 (d) The law enforcement agency investigating the sexual offense is responsible for  
3879 informing the victim or the victim's designee of the rights established under Subsections  
3880 (1)(j)(ii) through (iv) and (2), and this Subsection (3).

3881 (4) Informational rights of the victim under this chapter are based upon the victim  
3882 providing the current name, address, telephone number, and email address, if an email address  
3883 is available, of the person to whom the information should be provided to the criminal justice  
3884 agencies involved in the case.

3885 Section 87. Section **77-37-5** is amended to read:

3886 **77-37-5. Remedies -- District Victims' Rights Committee.**

3887 (1) In each judicial district, the Utah Council on Victims of Crime, established in  
3888 Section [63M-7-601](#), shall appoint a person who shall chair a judicial district victims' rights  
3889 committee consisting of:

- 3890 (a) a county attorney or district attorney;
- 3891 (b) a sheriff;
- 3892 (c) a corrections field services administrator;
- 3893 (d) an appointed victim advocate;
- 3894 (e) a municipal attorney;
- 3895 (f) a municipal chief of police; and
- 3896 (g) other representatives as appropriate.

3897 (2) The committee shall meet at least semiannually to review progress and problems  
3898 related to this chapter, Title 77, Chapter 38, Rights of Crime Victims Act, Title 77, Chapter  
3899 ~~[38a]~~ [38b](#), Crime Victims Restitution Act, and Utah Constitution Article I, Section 28. Victims  
3900 and other interested parties may submit matters of concern to the victims' rights committee.  
3901 The committee may hold a hearing open to the public on any appropriate matter of concern and  
3902 may publish its findings. These matters shall also be considered at the meetings of the victims'

3903 rights committee. The committee shall forward minutes of all meetings to the Utah Council on  
3904 Victims of Crime for review and other appropriate action.

3905 (3) If a victims' rights committee is unable to resolve a complaint, it may refer the  
3906 complaint to the Utah Council on Victims of Crime.

3907 (4) The Utah Office for Victims of Crime shall provide materials to local law  
3908 enforcement to inform every victim of a sexual offense of the right to request testing of the  
3909 convicted sexual offender and of the victim as provided in Section 76-5-502.

3910 (5) (a) If a person acting under color of state law willfully or wantonly fails to perform  
3911 duties so that the rights in this chapter are not provided, an action for injunctive relief may be  
3912 brought against the individual and the government entity that employs the individual.

3913 (b) For all other violations, if the committee finds a violation of a victim's right, it shall  
3914 refer the matter to the appropriate court for further proceedings consistent with Subsection  
3915 77-38-11(2).

3916 (c) The failure to provide the rights in this chapter or Title 77, Chapter 38, Rights of  
3917 Crime Victims Act, does not constitute cause for a judgment against the state or any  
3918 government entity, or any individual employed by the state or any government entity, for  
3919 monetary damages, attorney fees, or the costs of exercising any rights under this chapter.

3920 (6) The person accused of and subject to prosecution for the crime or the act which  
3921 would be a crime if committed by a competent adult, has no standing to make a claim  
3922 concerning any violation of the provisions of this chapter.

3923 Section 88. Section 77-38-3 is amended to read:

3924 **77-38-3. Notification to victims -- Initial notice, election to receive subsequent**  
3925 **notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact**  
3926 **order.**

3927 (1) Within seven days [~~of the filing of felony criminal charges~~] after the day on which  
3928 felony criminal charges are filed against a defendant, the prosecuting agency shall provide an  
3929 initial notice to reasonably identifiable and locatable victims of the crime contained in the  
3930 charges, except as otherwise provided in this chapter.

3931 (2) The initial notice to the victim of a crime shall provide information about electing  
3932 to receive notice of subsequent important criminal justice hearings listed in Subsections  
3933 77-38-2(5)(a) through (f) and rights under this chapter.

3934 (3) The prosecuting agency shall provide notice to a victim of a crime:  
3935 (a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a)  
3936 through (f), which the victim has requested; and  
3937 ~~[(b) for restitution requests to be submitted as provided in Subsection~~  
3938 ~~77-38a-302(5)(d)]~~  
3939 (b) for a restitution request to be submitted in accordance with Section 77-38b-202.  
3940 (4) (a) The responsible prosecuting agency may provide initial and subsequent notices  
3941 in any reasonable manner, including telephonically, electronically, orally, or by means of a  
3942 letter or form prepared for this purpose.  
3943 (b) In the event of an unforeseen important criminal justice hearing, listed in  
3944 Subsections 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith  
3945 attempt to contact the victim by telephone shall be considered sufficient notice, provided that  
3946 the prosecuting agency subsequently notifies the victim of the result of the proceeding.  
3947 (5) (a) The court shall take reasonable measures to ensure that its scheduling practices  
3948 for the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for  
3949 victims of crimes to be notified.  
3950 (b) The court shall ~~[also]~~ consider whether any notification system ~~[it]~~ that the court  
3951 might use to provide notice of judicial proceedings to defendants could be used to provide  
3952 notice of ~~[those same]~~ judicial proceedings to victims of crimes.  
3953 (6) A defendant or, if it is the moving party, the Division of Adult Probation and  
3954 Parole, shall give notice to the responsible prosecuting agency of any motion for modification  
3955 of any determination made at any of the important criminal justice hearings provided in  
3956 Subsections 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so  
3957 that the prosecuting agency may comply with ~~[its]~~ the prosecuting agency's notification  
3958 obligation.  
3959 (7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and  
3960 Parole for the important criminal justice hearing ~~[provided in]~~ under Subsection 77-38-2(5)(g).  
3961 (b) The board may provide notice in any reasonable manner, including telephonically,  
3962 electronically, orally, or by means of a letter or form prepared for this purpose.  
3963 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give  
3964 notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through



3965 (f) only where the victim has responded to the initial notice, requested notice of subsequent  
3966 proceedings, and provided a current address and telephone number if applicable.

3967 (9) To facilitate the payment of restitution and the notice of hearings regarding  
3968 restitution, a victim who seeks restitution and notice of restitution hearings shall provide the  
3969 court with the victim's current address and telephone number.

3970 [~~9~~] (10) (a) Law enforcement and criminal justice agencies shall refer any requests  
3971 for notice or information about crime victim rights from victims to the responsible prosecuting  
3972 agency.

3973 (b) In a case in which the Board of Pardons and Parole is involved, the responsible  
3974 prosecuting agency shall forward any request for notice [~~it~~] the prosecuting agency has received  
3975 from a victim to the Board of Pardons and Parole.

3976 [~~10~~] (11) In all cases where the number of victims exceeds 10, the responsible  
3977 prosecuting agency may send any notices required under this chapter in [~~its~~] the prosecuting  
3978 agency's discretion to a representative sample of the victims.

3979 [~~11~~] (12) (a) A victim's address, telephone number, and victim impact statement  
3980 maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of  
3981 Juvenile Justice Services, Department of Corrections, Utah State Courts, and Board of Pardons  
3982 and Parole, for purposes of providing notice under this section, [~~is~~] are classified as protected  
3983 [~~as provided in~~] under Subsection 63G-2-305(10).

3984 (b) The victim's address, telephone number, and victim impact statement is available  
3985 only to the following persons or entities in the performance of their duties:

3986 (i) a law enforcement agency, including the prosecuting agency;

3987 (ii) a victims' right committee as provided in Section 77-37-5;

3988 (iii) a governmentally sponsored victim or witness program;

3989 (iv) the Department of Corrections;

3990 (v) the Utah Office for Victims of Crime;

3991 (vi) the Commission on Criminal and Juvenile Justice; [~~and~~]

3992 (vii) the Utah State Courts; and

3993 [~~vii~~] (viii) the Board of Pardons and Parole.

3994 [~~12~~] (13) The notice provisions as provided in this section do not apply to  
3995 misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as

3996 provided in Section 77-38-2.

3997           ~~[(13)]~~ (14) (a) When a defendant is charged with a felony crime under Sections  
3998 76-5-301 through 76-5-310 regarding kidnapping, human trafficking, and human smuggling;  
3999 Sections 76-5-401 through 76-5-413 regarding sexual offenses; or Section 76-10-1306  
4000 regarding aggravated exploitation of prostitution, the court may, during any court hearing  
4001 where the defendant is present, issue a pretrial criminal no contact order:

4002           (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise  
4003 communicating with the victim directly or through a third party;

4004           (ii) ordering the defendant to stay away from the residence, school, place of  
4005 employment of the victim, and the premises of any of these, or any specified place frequented  
4006 by the victim or any designated family member of the victim directly or through a third party;  
4007 and

4008           (iii) ordering any other relief that the court considers necessary to protect and provide  
4009 for the safety of the victim and any designated family or household member of the victim.

4010           (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a  
4011 third degree felony.

4012           (c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no  
4013 contact order that has been issued if the victim can be located with reasonable effort.

4014           (ii) The court shall also transmit the pretrial criminal no contact order to the statewide  
4015 domestic violence network in accordance with Section 78B-7-113.

4016           Section 89. Section 77-38-15 is amended to read:

4017           **77-38-15. Civil action against human traffickers and human smugglers.**

4018           (1) A victim of a person that commits the offense of human trafficking or human  
4019 smuggling under Section 76-5-308, human trafficking of a child under Section 76-5-308.5,  
4020 aggravated human trafficking or aggravated human smuggling under Section 76-5-310, or  
4021 benefitting from human trafficking under Subsection 76-5-309(4) may bring a civil action  
4022 against that person.

4023           (2) (a) The court may award actual damages, compensatory damages, punitive  
4024 damages, injunctive relief, or any other appropriate relief.

4025           (b) The court may award treble damages on proof of actual damages if the court finds  
4026 that the person's acts were willful and malicious.

4027 (3) In an action under this section, the court shall award a prevailing victim reasonable  
4028 attorney fees and costs.

4029 (4) An action under this section shall be commenced no later than 10 years after the  
4030 later of:

4031 (a) the day on which the victim was freed from the human trafficking or human  
4032 smuggling situation;

4033 (b) the day on which the victim attains 18 years [~~of age~~] old; or

4034 (c) if the victim was unable to bring an action due to a disability, the day on which the  
4035 victim's disability ends.

4036 (5) The time period described in Subsection (4) is tolled during a period of time when  
4037 the victim fails to bring an action due to the person:

4038 (a) inducing the victim to delay filing the action;

4039 (b) preventing the victim from filing the action; or

4040 (c) threatening and causing duress upon the victim in order to prevent the victim from  
4041 filing the action.

4042 (6) The court shall offset damages awarded to the victim under this section by any  
4043 restitution paid to the victim under Title 77, Chapter [~~38a~~] 38b, Crime Victims Restitution Act.

4044 (7) A victim may bring an action described in this section in any court of competent  
4045 jurisdiction where:

4046 (a) a violation described in Subsection (1) occurred;

4047 (b) the victim resides; or

4048 (c) the person that commits the offense resides or has a place of business.

4049 (8) If the victim is deceased or otherwise unable to represent the victim's own interests  
4050 in court, a legal guardian, family member, representative of the victim, or court appointee may  
4051 bring an action under this section on behalf of the victim.

4052 (9) This section does not preclude any other remedy available to the victim under the  
4053 laws of this state or under federal law.

4054 Section 90. Section ~~77-38b-101~~, which is renumbered from Section 77-38a-101 is  
4055 renumbered and amended to read:

4056 **CHAPTER 38b. CRIME VICTIMS RESTITUTION ACT**

4057 **Part 1. General Provisions**

4058 ~~[77-38a-101]~~. 77-38b-101. Title.

4059 This chapter is known as the "Crime Victims Restitution Act."

4060 Section 91. Section ~~77-38b-102~~, which is renumbered from Section 77-38a-102 is  
4061 renumbered and amended to read:

4062 ~~[77-38a-102]~~. 77-38b-102. Definitions.

4063 As used in this chapter:

4064 ~~[(1) "Conviction" includes a:]~~

4065 ~~[(a) judgment of guilty;]~~

4066 ~~[(b) a plea of guilty; or]~~

4067 ~~[(c) a plea of no contest.]~~

4068 (1) (a) "Conviction" means:

4069 (i) a plea of:

4070 (A) guilty;

4071 (B) guilty with a mental illness; or

4072 (C) no contest; or

4073 (ii) a judgment of:

4074 (A) guilty; or

4075 (B) guilty with a mental illness.

4076 (b) "Conviction" does not include:

4077 (i) a plea in abeyance until a conviction is entered for the plea in abeyance;

4078 (ii) a diversion agreement; or

4079 (iii) an adjudication of a minor for an offense under Section [78A-6-117](#).

4080 (2) "Criminal [~~activities~~] conduct" means:

4081 (a) any misdemeanor or felony offense of which the defendant is convicted; or

4082 (b) any other criminal [~~conduct~~] behavior for which the defendant admits responsibility  
4083 to the sentencing court with or without an admission of committing the criminal [~~conduct~~]  
4084 behavior.

4085 (3) (a) "Defendant" means an individual who has been convicted of, or entered into a  
4086 plea disposition for, [~~a criminal activity~~] criminal conduct.

4087 (b) "Defendant" does not include a minor, as defined in Section [78A-6-105](#), who is  
4088 adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 78A, Chapter

4089 6, Juvenile Court Act.

4090 (4) "Department" means the Department of Corrections.

4091 (5) [~~"Diversion"~~] "Diversion agreement" means [~~suspending~~] an agreement entered  
4092 into by the prosecuting attorney and the defendant that suspends criminal proceedings [~~prior to~~]  
4093 before conviction on the condition that a defendant agree to participate in a rehabilitation  
4094 program, [make] pay restitution to the victim, or fulfill some other condition.

4095 (6) "Office" means the Office of State Debt Collection created in Section [63A-3-502](#).

4096 [~~(6)~~] (7) "Party" means the [~~prosecutor,~~] prosecuting attorney, the defendant, or the  
4097 department involved in a prosecution.

4098 [~~(7)~~] "~~Pecuniary damages~~" means ~~all demonstrable economic injury, whether or not yet~~  
4099 ~~incurred, including those which a person could recover in a civil action arising out of the facts~~  
4100 ~~or events constituting the defendant's criminal activities and includes the fair market value of~~  
4101 ~~property taken, destroyed, broken, or otherwise harmed, and losses, including lost earnings,~~  
4102 ~~including those and other travel expenses reasonably incurred as a result of participation in~~  
4103 ~~criminal proceedings, and medical and other expenses, but excludes punitive or exemplary~~  
4104 ~~damages and pain and suffering.]~~

4105 (8) "Payment schedule" means the same as that term is defined in Section [77-32b-102](#).

4106 (9) (a) "Pecuniary damages" means all demonstrable economic injury, losses, and  
4107 expenses regardless of whether the economic injury, losses, and expenses have yet been  
4108 incurred.

4109 (b) "Pecuniary damages" does not include punitive damages or pain and suffering  
4110 damages.

4111 [~~(8)~~] (10) "Plea agreement" means an agreement entered between the [~~prosecution~~]  
4112 prosecuting attorney and the defendant setting forth the special terms and conditions and  
4113 criminal charges upon which the defendant will enter a plea of guilty or no contest.

4114 [~~(9)~~] (11) "Plea disposition" means an agreement entered into between the  
4115 [~~prosecution~~] prosecuting attorney and the defendant including a diversion agreement, a plea  
4116 agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a  
4117 plea in any other jurisdiction or where charges are dismissed without a plea.

4118 [~~(10)~~] (12) "Plea in abeyance" means an order by a court, upon motion of the  
4119 [~~prosecution~~] prosecuting attorney and the defendant, accepting a plea of guilty or of no contest

4120 from the defendant but not, at that time, entering judgment of conviction against ~~[him]~~ the  
4121 defendant nor imposing sentence upon ~~[him]~~ the defendant on condition that ~~[he]~~ the defendant  
4122 comply with specific conditions as set forth in a plea in abeyance agreement.

4123 ~~[(11)]~~ (13) "Plea in abeyance agreement" means an agreement entered into between the  
4124 ~~[prosecution]~~ prosecuting attorney and the defendant setting forth the specific terms and  
4125 conditions upon which, following acceptance of the agreement by the court, a plea may be held  
4126 in abeyance.

4127 ~~[(12) "Restitution" means full, partial, or nominal payment for pecuniary damages to a~~  
4128 ~~victim, including prejudgment interest, the accrual of interest from the time of sentencing,~~  
4129 ~~insured damages, reimbursement for payment of a reward, and payment for expenses to a~~  
4130 ~~governmental entity for extradition or transportation and as may be further defined by law.]~~

4131 ~~[(13) (a) "Reward" means a sum of money:]~~

4132 ~~[(i) offered to the public for information leading to the arrest and conviction of an~~  
4133 ~~offender; and]~~

4134 ~~[(ii) that has been paid to a person or persons who provide this information, except that~~  
4135 ~~the person receiving the payment may not be a codefendant, an accomplice, or a bounty~~  
4136 ~~hunter.]~~

4137 ~~[(b) "Reward" does not include any amount paid in excess of the sum offered to the~~  
4138 ~~public.]~~

4139 ~~[(14) "Screening" means the process used by a prosecuting attorney to terminate~~  
4140 ~~investigative action, proceed with prosecution, move to dismiss a prosecution that has been~~  
4141 ~~commenced, or cause a prosecution to be diverted.]~~

4142 ~~[(15) (a) "Victim" means an individual or entity, including the Utah Office for Victims~~  
4143 ~~of Crime, that the court determines has suffered pecuniary damages as a result of the~~  
4144 ~~defendant's criminal activities.]~~

4145 ~~[(b) "Victim" may not include a codefendant or accomplice.]~~

4146 (14) "Restitution" means the payment of pecuniary damages to a victim.

4147 (15) (a) "Victim" means any person who has suffered pecuniary damages that are  
4148 proximately caused by the criminal conduct of the defendant.

4149 (b) "Victim" includes:

4150 (i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes

4151 a payment to a victim under Section [63M-7-519](#);

4152 (ii) the estate of a deceased victim; and

4153 (iii) a parent, spouse, or sibling of a victim.

4154 (c) "Victim" does not include a codefendant or accomplice.

4155 Section 92. Section **77-38b-201** is enacted to read:

4156 **Part 2. Determination of Restitution**

4157 **77-38b-201. Law enforcement responsibility for collecting restitution**

4158 **information.**

4159 A law enforcement agency investigating criminal conduct that would constitute a felony

4160 or a misdemeanor shall include all information about restitution for any potential victim in the

4161 investigative report, including information about:

4162 (1) whether a claim for restitution exists;

4163 (2) the basis for the claim; and

4164 (3) the estimated or actual amount of the claim.

4165 Section 93. Section **77-38b-202** is enacted to read:

4166 **77-38b-202. Prosecuting attorney responsibility for collecting restitution**

4167 **information -- Depositing restitution on behalf of victim.**

4168 (1) If a prosecuting attorney files a criminal charge against a defendant, the prosecuting  
4169 attorney shall:

4170 (a) contact any known victim of the offense for which the criminal charge is filed, or  
4171 person asserting a claim for restitution on behalf of the victim; and

4172 (b) gather the following information from the victim or person:

4173 (i) the name of the victim or person; and

4174 (ii) the actual or estimated amount of restitution.

4175 (2) (a) When a conviction, a diversion agreement, or a plea in abeyance is entered by  
4176 the court, the prosecuting attorney shall provide the court with the information gathered by the  
4177 prosecuting attorney under Subsection (1)(b).

4178 (b) If, at the time of the plea disposition or conviction, the prosecuting attorney does  
4179 not have all the information under Subsection (1)(b), the prosecuting attorney shall provide the  
4180 defendant with:

4181 (i) at the time of plea disposition or conviction, all information under Subsection (1)(b)

4182 that is reasonably available to the prosecuting attorney; and

4183 (ii) any information under Subsection (1)(b) as the information becomes available to  
4184 the prosecuting attorney.

4185 (c) Nothing in this section shall be construed to prevent a prosecuting attorney, a  
4186 victim, or a person asserting a claim for restitution on behalf of a victim from:

4187 (i) submitting information on, or a request for, restitution to the court within the time  
4188 periods described in Subsection [77-38b-205\(6\)](#); or

4189 (ii) submitting information on, or a request for, restitution for additional or substituted  
4190 victims within the time periods described in Subsection [77-38b-205\(6\)](#).

4191 (3) (a) The prosecuting attorney may be authorized by the appropriate public treasurer  
4192 to deposit restitution collected on behalf of a victim into an interest-bearing account in  
4193 accordance with Title 51, Chapter 7, State Money Management Act, pending the distribution of  
4194 the funds to the victim.

4195 (b) If restitution is deposited into an interest-bearing account under Subsection (3)(a),  
4196 the prosecuting attorney shall:

4197 (i) distribute any interest that accrues in the account to each victim on a pro rata basis;  
4198 and

4199 (ii) if all victims have been made whole and funds remain in the account, distribute any  
4200 remaining funds to the Division of Finance, created in Section [63A-3-101](#), to deposit to the  
4201 Utah Office for Victims of Crime.

4202 (c) Nothing in this section prevents an independent judicial authority from collecting,  
4203 holding, and distributing restitution.

4204 Section 94. Section **77-38b-203** is enacted to read:

4205 **77-38b-203. Department of Corrections responsibility for collecting restitution**  
4206 **information -- Presentence investigation report -- In camera review of victim information.**

4207 (1) In preparing a presentence investigation report described in Section [77-18-103](#), the  
4208 department shall obtain information on restitution from:

4209 (a) the law enforcement agency and the prosecuting attorney; and

4210 (b) any victim of the offense or person asserting a claim for restitution on behalf of the  
4211 victim.

4212 (2) A victim seeking restitution, a prosecuting attorney, or a person asserting a claim



4213 for restitution on behalf of a victim, shall provide the department with:

4214 (a) all invoices, bills, receipts, and any other evidence of pecuniary damages;

4215 (b) all documentation of any compensation or reimbursement from an insurance  
4216 company or a local, state, or federal agency that is related to the pecuniary damages for the  
4217 offense;

4218 (c) the victim's proof of identification, including the victim's date of birth, social  
4219 security number, driver license number; and

4220 (d) the victim's or the person's contact information, including next of kin if available,  
4221 current home and work address, and telephone number.

4222 (3) In the presentence investigation report, the department shall make every effort to:

4223 (a) itemize any pecuniary damages suffered by the victim;

4224 (b) include a specific statement on the amount of restitution that the department  
4225 recommends for each victim; and

4226 (c) include a victim impact statement that:

4227 (i) provides the name of each victim and any person asserting a claim on behalf of a  
4228 victim;

4229 (ii) describes the effect of the offense on the victim and the victim's family;

4230 (iii) describes any physical, mental, or emotional injury suffered by a victim as a result  
4231 of the offense and the seriousness and permanence of the injury;

4232 (iv) describes any change in a victim's personal welfare or familial relationships as a  
4233 result of the offense;

4234 (v) provides any request for mental health services by a victim or a victim's family  
4235 member as a result of the offense; and

4236 (vi) provides any other relevant information regarding the impact of the offense upon a  
4237 victim or the victim's family.

4238 (4) (a) A prosecuting attorney and the department may take steps that are reasonably  
4239 necessary to protect the identity of a victim and the victim's family in information that is  
4240 submitted to the court under this section.

4241 (b) If a defendant seeks to view protected, safeguarded, or confidential information  
4242 about a victim or a victim's family, the court shall review the information in camera.

4243 (c) The court may allow the defendant to view the information under Subsection (4)(b)

4244 if the court finds that:

4245 (i) the defendant's interest in viewing the information outweighs the victim's or the  
4246 victim's family safety and privacy interests; and

4247 (ii) there are protections in place to safeguard the victim's and the victim's family safety  
4248 and privacy interests.

4249 Section 95. Section ~~77-38b-204~~, which is renumbered from Section 77-38a-204 is  
4250 renumbered and amended to read:

4251 ~~[77-38a-204]~~. 77-38b-204. Financial declaration by defendant.

4252 (1) (a) The Judicial Council shall design and publish a financial declaration form to be  
4253 completed by a defendant [~~in a case where the prosecutor has indicated that restitution may be~~  
4254 ~~ordered.~~] in a misdemeanor or felony case.

4255 (b) The financial declaration form shall:

4256 (i) require a defendant to disclose all assets, income, and financial liabilities of the  
4257 defendant, including:

4258 (A) real property;

4259 (B) vehicles;

4260 (C) precious metals or gems;

4261 (D) jewelry with a value of \$1,000 or more;

4262 (E) other personal property with a value of \$1,000 or more;

4263 (F) [~~bank account balances~~] the balance of any bank account and the name of the  
4264 financial institution for the bank account;

4265 (G) cash;

4266 (H) salary, wages, commission, tips, and business income, including the name of any  
4267 employer or entity from which the defendant receives a salary, wage, commission, tip, or

4268 business income;

4269 (I) pensions and annuities;

4270 (J) intellectual property;

4271 (K) accounts receivable;

4272 (L) accounts payable;

4273 (M) mortgages, loans, and other debts; and

4274 (N) restitution that has been ordered, and not fully paid, in other cases; and

4275 (ii) state that a false statement made in the financial declaration form is punishable as a  
4276 class B misdemeanor under Section [76-8-504](#).

4277 ~~[(2) A defendant shall, before sentencing, or earlier if ordered by the court, complete~~  
4278 ~~the financial declaration described in Subsection (1).]~~

4279 (2) After a plea disposition or conviction has been entered but before sentencing, a  
4280 defendant shall complete the financial declaration form described in Subsection (1).

4281 (3) When a civil judgment of restitution or a civil accounts receivable is entered for a  
4282 defendant on the civil judgment docket under Section [77-18-114](#), the court shall provide the  
4283 Office of State Debt Collection with the defendant's financial declaration form.

4284 Section 96. Section **77-38b-205** is enacted to read:

4285 **77-38b-205. Order for restitution.**

4286 (1) (a) (i) If a defendant is convicted, as defined in Section [76-3-201](#), the court shall  
4287 order a defendant, as part of the sentence imposed under Section [76-3-201](#), to pay restitution to  
4288 all victims:

4289 (A) in accordance with the terms of any plea agreement in the case; or

4290 (B) for the entire amount of pecuniary damages that are proximately caused to each  
4291 victim by the criminal conduct of the defendant.

4292 (ii) In determining the amount of pecuniary damages under Subsection (1)(a)(i)(B), the  
4293 court shall consider all relevant facts to establish an amount that fully compensates a victim for  
4294 all pecuniary damages proximately caused by the criminal conduct of the defendant.

4295 (iii) The court shall enter the determination of the amount of restitution under  
4296 Subsection (1)(a)(ii) as a finding on the record.

4297 (b) If a court enters a plea in abeyance or a diversion agreement for a defendant that  
4298 includes an agreement to pay restitution, the court shall order the defendant to pay restitution in  
4299 accordance with the terms of the plea in abeyance or the diversion agreement.

4300 (2) (a) Upon an order for a defendant to pay restitution under Subsection (1), the court  
4301 shall:

4302 (i) enter an order to establish a criminal accounts receivable as described in Section  
4303 [77-32b-103](#); and

4304 (ii) establish a payment schedule for the criminal accounts receivable as described in  
4305 Section [77-32b-103](#).

4306 (3) If the defendant objects to the order for restitution or the payment schedule, the  
4307 court shall allow the defendant to have a hearing on the issue, unless the issue is addressed at  
4308 the sentencing hearing for the defendant.

4309 (4) For a defendant whose sentence is not suspended, the court may suspend the time in  
4310 which the defendant is required to make payments in accordance with the payment schedule  
4311 until the defendant is released on parole.

4312 (5) (a) For a defendant who is sentenced after May 5, 2021, if no restitution is ordered  
4313 at sentencing, the court shall schedule a hearing to determine restitution, unless the parties  
4314 waive the hearing in accordance with Subsection (5)(b).

4315 (b) The parties may only waive a hearing under Subsection (5)(a) if:

4316 (i) the parties have stipulated to the amount of restitution owed; or

4317 (ii) the prosecuting attorney certifies that the prosecuting attorney has consulted with  
4318 the victim, including the Utah Office for Victims of Crime, and the defendant owes no  
4319 restitution.

4320 (c) The court may not enter an order for restitution without a statement from the  
4321 prosecuting attorney that the prosecuting attorney has consulted with the victim, including the  
4322 Utah Office for Victims of Crime.

4323 (d) If the court does not enter an order for restitution in a hearing under Subsection  
4324 (5)(a), the court shall:

4325 (i) state, on the record, why the court did not enter an order for restitution; and

4326 (ii) order a continuance of the hearing.

4327 (6) A court shall enter an order for restitution in a defendant's case no later than the  
4328 earlier of:

4329 (a) the termination of the defendant's sentence; or

4330 (b) (i) if the defendant is convicted and imprisoned for a first degree felony, within  
4331 seven years after the day on which the court sentences the defendant for the first degree felony  
4332 conviction;

4333 (ii) except as provided in Subsection (6)(b)(i), and if the defendant is convicted of a  
4334 felony, within three years after the day on which the court sentences the defendant for the  
4335 felony conviction; and

4336 (iii) if the defendant is convicted of a misdemeanor, within one year after the day on

4337 which the court sentences the defendant for the misdemeanor conviction.

4338 (7) (a) Upon a motion from the prosecuting attorney or the victim, the court may  
4339 modify an existing order of restitution, including the amount of pecuniary damages owed by  
4340 the defendant in the order for restitution, if the prosecuting attorney or the victim shows good  
4341 cause for modifying the order.

4342 (b) A motion under Subsection (7)(a) shall be brought within the time periods  
4343 described in Subsection (6).

4344 Section 97. Section **77-38b-301** is enacted to read:

4345 **Part 3. Civil Accounts Receivables and Civil Judgments for Restitution**

4346 **77-38b-301. Entry of judgment -- Interest -- Civil actions -- Lien -- Delinquency.**

4347 (1) As used in this section, "judgment" means an order for:

4348 (a) a civil judgment of restitution; or

4349 (b) a civil accounts receivable.

4350 (2) (a) If the court has entered a judgment on the civil judgment docket under Section  
4351 77-18-114, the judgment is enforceable under the Utah Rules of Civil Procedure.

4352 (b) (i) Notwithstanding Subsection (2)(a):

4353 (A) a judgment is an obligation that arises out of the defendant's criminal case;

4354 (B) civil enforcement of a judgment shall be construed as a continuation of the  
4355 criminal action for which the judgment arises; and

4356 (C) a judgment is criminal in nature.

4357 (ii) Civil enforcement of a judgment does not divest a defendant of an obligation  
4358 imposed in a criminal action as part of the defendant's punishment for an offense.

4359 (3) (a) Notwithstanding Sections 77-18-114, 78B-2-311, and 78B-5-202, a judgment  
4360 shall expire only upon payment in full, including applicable interest, collection fees, attorney  
4361 fees, and liens that directly result from the judgment.

4362 (b) Interest on a judgment may only accrue from the day on which the judgment is  
4363 entered on the civil judgment docket by the court.

4364 (c) This Subsection (3) applies to all judgments that are not paid in full on or before  
4365 May 12, 2009.

4366 (4) A judgment is considered entered on the civil judgment docket when the judgment  
4367 appears on the civil judgment docket with:

4368 (a) an amount owed by the defendant;  
4369 (b) the name of the defendant as the judgment debtor; and  
4370 (c) the name of the judgment creditors described in Subsections 77-18-114(1)(c)(iii)  
4371 and (2)(b).

4372 (5) If a civil judgment of restitution becomes delinquent, or is in default, and upon a  
4373 motion from a judgment creditor, the court may order the defendant to appear and show cause  
4374 why the defendant should not be held in contempt under Section 78B-6-317 for the  
4375 delinquency or the default.

4376 Section 98. Section 77-38b-302 is enacted to read:

4377 **77-38b-302. Nondischargability in bankruptcy.**

4378 A civil judgment of restitution and a civil accounts receivable are considered a debt  
4379 from a criminal case that may not be discharged in bankruptcy.

4380 Section 99. Section 77-38b-303 is enacted to read:

4381 **77-38b-303. Civil action by a victim for damages.**

4382 (1) (a) A provision under this part concerning restitution does not limit or impair the  
4383 right of a person injured by a defendant's criminal conduct to sue and recover damages from the  
4384 defendant in a civil action.

4385 (b) A court's finding under Subsection 77-38b-205(1)(a)(iii) may be used in a civil  
4386 action for a defendant's liability to a victim as presumptive proof of the victim's pecuniary  
4387 damages that are proximately caused by the defendant's criminal conduct.

4388 (c) If a conviction in a criminal trial decides the issue of a defendant's liability for  
4389 pecuniary damages suffered by a victim, the issue of the defendant's liability is conclusively  
4390 determined as to the defendant if the issue is involved in a subsequent civil action.

4391 (2) (a) The sentencing court shall credit any payment in favor of the victim in a civil  
4392 action for the defendant's criminal conduct toward the amount of restitution owed by the  
4393 defendant to the victim.

4394 (b) In a civil action, a court shall credit any restitution paid by the defendant to a victim  
4395 for the defendant's criminal conduct towards the victim against any judgment that is in favor of  
4396 the victim for the civil action.

4397 (c) If a victim receives payment from the defendant for the civil action, the victim shall  
4398 provide notice to the sentencing court and the court in the civil action of the payment within 30

4399 days after the day on which the victim receives the payment.

4400 (d) Nothing in this section shall prevent a defendant from providing proof of payment  
4401 to the court or the office.

4402 (3) (a) If a victim prevails in a civil action against a defendant, the court shall award  
4403 reasonable attorney fees and costs to the victim.

4404 (b) If the defendant prevails in the civil action, the court shall award reasonable costs to  
4405 the defendant if the court finds that the victim brought the civil action for an improper purpose,  
4406 including to harass the defendant or to cause unnecessary delay or needless increase in the cost  
4407 of litigation.

4408 Section 100. Section ~~77-38b-304~~, which is renumbered from Section 77-38a-404 is  
4409 renumbered and amended to read:

4410 ~~[77-38a-404].~~ **77-38b-304. Priority.**

4411 ~~[(1) Restitution payments made pursuant to a court order shall be disbursed to victims~~  
4412 ~~within 60 days of receipt from the defendant by the court or department provided:]~~

4413 (1) The court, or the office, shall disburse a payment for restitution within 60 days after  
4414 the day on which the payment is received from the defendant if:

4415 (a) the victim has complied with Subsection ~~[77-38a-203(1)(b)]~~ 77-38b-203(2);

4416 (b) if the defendant has tendered a negotiable instrument, funds from the financial  
4417 institution are actually received; and

4418 (c) the payment to the victim is at least \$5, unless the payment is the final payment.

4419 ~~[(2) If restitution to more than one person, agency, or entity is required at the same~~  
4420 ~~time, the department shall establish the following priorities of payment, except as provided in~~  
4421 ~~Subsection (4):]~~

4422 ~~[(a) the crime victim;]~~

4423 ~~[(b) the Utah Office for Victims of Crime;]~~

4424 ~~[(c) any other government agency which has provided reimbursement to the victim as a~~  
4425 ~~result of the offender's criminal conduct;]~~

4426 ~~[(d) the person, entity, or governmental agency that has offered and paid a reward~~  
4427 ~~under Section ~~77-32a-101~~;~~]

4428 ~~[(e) any insurance company which has provided reimbursement to the victim as a result~~  
4429 ~~of the offender's criminal conduct; and]~~

4430 ~~[(f) any county correctional facility to which the defendant is required to pay restitution~~  
4431 ~~under Subsection 76-3-201(6).]~~

4432 ~~[(3) Restitution ordered under Subsection (2)(f) is paid after criminal fines and~~  
4433 ~~surcharges are paid.]~~

4434 ~~[(4) If the offender is required under Section 53-10-404 to reimburse the department~~  
4435 ~~for the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority~~  
4436 ~~after restitution to the crime victim under Subsection (2)(a).]~~

4437 ~~[(5) All money collected for court-ordered obligations from offenders by the~~  
4438 ~~department will be applied:]~~

4439 ~~[(a) first, to victim restitution, except the current and past due amount of \$30 per~~  
4440 ~~month required to be collected by the department under Section 64-13-21, if applicable; and]~~

4441 ~~[(b) second, if applicable, to the cost of obtaining a DNA specimen under Subsection~~  
4442 ~~(4).]~~

4443 ~~[(6) Restitution owed to more than one victim shall be disbursed to each victim~~  
4444 ~~according to the percentage of each victim's share of the total restitution order.]~~

4445 (2) The court, or the office, shall disburse money collected from a defendant for a  
4446 criminal accounts receivable in the following order of priority:

4447 (a) first, and except as provided in Subsection (4)(b), to restitution owed by the  
4448 defendant in accordance with Subsection (4);

4449 (b) second, to the cost of obtaining a DNA specimen from the defendant as described  
4450 in Subsection (4)(b);

4451 (c) third, to any criminal fine or surcharge owed by the defendant;

4452 (d) fourth, to the cost owed by the defendant for a reward described in Section  
4453 77-32b-104;

4454 (e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization  
4455 and related transportation paid by a county correctional facility under Section 17-50-319; and

4456 (f) sixth, to any other cost owed by the defendant.

4457 (3) The office shall disburse money collected from a defendant for a civil accounts  
4458 receivable and civil judgment of restitution in the following order of priority:

4459 (a) first, to any past due amount owed to the department for the monthly supervision  
4460 fee under Subsection 64-13-21(6)(a);



4461 (b) second, and except as provided in Subsection (4)(b), to restitution owed by the  
4462 defendant in accordance with Subsection (4);

4463 (c) third, to the cost of obtaining a DNA specimen from the defendant in accordance  
4464 with Subsection (4)(b);

4465 (d) fourth, to any criminal fine or surcharge owed by the defendant;

4466 (e) fifth, to the cost owed by the defendant for a reward described in Section  
4467 77-32b-104;

4468 (f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization  
4469 and related transportation paid by a county correctional facility under Section 17-50-319; and

4470 (g) seventh, to any other cost owed by the defendant.

4471 (4) (a) If a defendant owes restitution to more than one person or government agency at  
4472 the same time, the court, or the office, shall disburse a payment for restitution in the following  
4473 order of priority:

4474 (i) first, to the victim of the offense;

4475 (ii) second, to the Utah Office for Victims of Crime;

4476 (iii) third, any other government agency that has provided reimbursement to the victim  
4477 as a result of the defendant's criminal conduct; and

4478 (iv) fourth, any insurance company that has provided reimbursement to the victim as a  
4479 result of the defendant's criminal conduct.

4480 (b) If a defendant is required under Section 53-10-404 to reimburse the department for  
4481 the cost of obtaining the defendant's DNA specimen, the reimbursement for the cost of  
4482 obtaining the defendant's DNA specimen is the next priority after restitution to the victim of  
4483 the offense under Subsection (4)(a)(i).

4484 (c) If the defendant is required to pay restitution to more than one victim, restitution  
4485 shall be disbursed to each victim according to the percentage of each victim's share of the total  
4486 order for restitution.

4487 (5) For a criminal accounts receivable, the department shall collect the current and past  
4488 due amount owed by a defendant for the monthly supervision fee under Subsection  
4489 64-13-21(6)(a) until the court enters a civil accounts receivable on the civil judgment docket  
4490 under Section 77-18-114.

4491 Section 101. Section **77-38b-401**, which is renumbered from Section 77-38a-502 is

4492 renumbered and amended to read:

4493 **Part 4. Enforcement and Collection of Restitution**

4494 ~~[77-38a-502].~~ **77-38b-401. Collection from inmate offenders.**

4495 ~~[In addition to the remedies provided in Section 77-38a-501, the]~~ Upon written request  
4496 of the prosecuting attorney, the victim, or the parole or probation agent for the defendant, the  
4497 department [upon written request of the prosecutor, victim, or parole or probation agent,] shall  
4498 collect restitution from offender funds held by the department ~~[as provided in]~~ under Section  
4499 64-13-23.

4500 Section 102. Section **77-38b-402**, which is renumbered from Section 77-38a-601 is  
4501 renumbered and amended to read:

4502 ~~[77-38a-601].~~ **77-38b-402. Preservation of assets.**

4503 (1) ~~[Prior to or at the time]~~ Before, or at the time, a criminal information, indictment  
4504 charging a violation, or a petition alleging delinquency is filed, or at any time during the  
4505 prosecution of the case, a ~~[prosecutor]~~ prosecuting attorney may, if in the ~~[prosecutor's]~~  
4506 prosecuting attorney's best judgment there is a substantial likelihood that a conviction will be  
4507 obtained and restitution will be ordered in the case, petition the court to:

4508 (a) enter a temporary restraining order, an injunction, or both;

4509 (b) require the execution of a satisfactory performance bond; or

4510 (c) take any other action to preserve the availability of property ~~[which]~~ that may be  
4511 necessary to satisfy an anticipated ~~[restitution order]~~ order for restitution.

4512 (2) (a) Upon receiving a request from a ~~[prosecutor]~~ prosecuting attorney under  
4513 Subsection (1), and after notice to ~~[persons]~~ a person appearing to have an interest in the  
4514 property and affording ~~[them]~~ the person an opportunity to be heard, the court may take action  
4515 as requested by the ~~[prosecutor]~~ prosecuting attorney if the court determines:

4516 (i) there is probable cause to believe that ~~[a crime]~~ an offense has been committed and  
4517 that the defendant committed ~~[it]~~ the offense, and that failure to enter the order will likely  
4518 result in the property being sold, distributed, exhibited, destroyed, or removed from the  
4519 jurisdiction of the court, or otherwise be made unavailable for restitution; and

4520 (ii) the need to preserve the availability of the property or prevent ~~[its]~~ the property's  
4521 sale, distribution, exhibition, destruction, or removal through the entry of the requested order  
4522 outweighs the hardship on any party against whom the order is to be entered.

4523 (b) In a hearing conducted [~~pursuant to~~] in accordance with this section, a court may  
4524 consider reliable hearsay as defined in Utah Rules of Evidence, Rule 1102.

4525 (c) An order for an injunction entered under this section is effective for the period of  
4526 time given in the order.

4527 (3) (a) Upon receiving a request for a temporary restraining order from a [~~prosecutor~~]  
4528 prosecuting attorney under this section, a court may enter a temporary restraining order against  
4529 an owner with respect to specific property without notice or opportunity for a hearing if:

4530 (i) the [~~prosecutor~~] prosecuting attorney demonstrates that there is a substantial  
4531 likelihood that the property with respect to which the order is sought appears to be necessary to  
4532 satisfy an anticipated restitution order under this chapter; and

4533 (ii) provision of notice would jeopardize the availability of the property to satisfy any  
4534 [~~restitution order or judgment~~] judgment or order for restitution.

4535 (b) The temporary order in this Subsection (3) expires [~~not more than 10 days after it~~]  
4536 no later than 10 days after the day on which the temporary order is entered unless extended for  
4537 good cause shown or the party against whom [~~it~~] the temporary order is entered consents to an  
4538 extension.

4539 (4) A hearing concerning an order entered under this section shall be held as soon as  
4540 possible, and [~~prior to~~] before the expiration of the temporary order.

4541 Section 103. Section ~~77-40-102~~ is amended to read:

4542 **77-40-102. Definitions.**

4543 As used in this chapter:

4544 (1) "Administrative finding" means a decision upon a question of fact reached by an  
4545 administrative agency following an administrative hearing or other procedure satisfying the  
4546 requirements of due process.

4547 (2) "Agency" means a state, county, or local government entity that generates or  
4548 maintains records relating to an investigation, arrest, detention, or conviction for an offense for  
4549 which expungement may be ordered.

4550 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public  
4551 Safety established in Section [53-10-201](#).

4552 (4) "Certificate of eligibility" means a document issued by the bureau stating that the  
4553 criminal record and all records of arrest, investigation, and detention associated with a case that

4554 is the subject of a petition for expungement is eligible for expungement.

4555 (5) (a) "Clean slate eligible case" means a case:

4556 (i) where, except as provided in Subsection (5)(c), each conviction within the case is:

4557 (A) a misdemeanor conviction for possession of a controlled substance in violation of

4558 Subsection 58-37-8(2)(a)(i);

4559 (B) a class B or class C misdemeanor conviction; or

4560 (C) an infraction conviction;

4561 (ii) that involves an individual:

4562 (A) whose total number of convictions in Utah state courts, not including infractions,

4563 traffic offenses, or minor regulatory offenses, does not exceed the limits described in

4564 Subsections 77-40-105(5) and (6) without taking into consideration the exception in Subsection

4565 77-40-105(8); and

4566 (B) against whom no criminal proceedings are pending in the state; and

4567 (iii) for which the following time periods have elapsed from the day on which the case

4568 is adjudicated:

4569 (A) at least five years for a class C misdemeanor or an infraction;

4570 (B) at least six years for a class B misdemeanor; and

4571 (C) at least seven years for a class A conviction for possession of a controlled

4572 substance in violation of Subsection 58-37-8(2)(a)(i).

4573 (b) "Clean slate eligible case" includes a case that is dismissed as a result of a

4574 successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b)

4575 if:

4576 (i) except as provided in Subsection (5)(c), each charge within the case is:

4577 (A) a misdemeanor for possession of a controlled substance in violation of Subsection

4578 58-37-8(2)(a)(i);

4579 (B) a class B or class C misdemeanor; or

4580 (C) an infraction;

4581 (ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

4582 (iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed

4583 from the day on which the case is dismissed.

4584 (c) "Clean slate eligible case" does not include a case:

- 4585 (i) where the individual is found not guilty by reason of insanity;
- 4586 (ii) where the case establishes [~~a criminal judgment accounts receivable, as defined in~~  
4587 ~~Section 77-32a-101~~] a criminal accounts receivable, as defined in Section 77-32b-102, that:
- 4588 (A) has been entered as a [~~civil judgment~~] civil accounts receivable or a civil judgment  
4589 of restitution, as those terms are defined in Section 77-32b-102, and transferred to the Office of  
4590 State Debt Collection under Section 77-18-114; or
- 4591 (B) has not been satisfied according to court records; or
- 4592 (iii) that resulted in one or more pleas held in abeyance or convictions for the following  
4593 offenses:
- 4594 (A) any of the offenses listed in Subsection 77-40-105(2)(a);
- 4595 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against  
4596 the Person;
- 4597 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
- 4598 (D) sexual battery in violation of Section 76-9-702.1;
- 4599 (E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
- 4600 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence  
4601 and Reckless Driving;
- 4602 (G) damage to or interruption of a communication device in violation of Section  
4603 76-6-108;
- 4604 (H) a domestic violence offense as defined in Section 77-36-1; or
- 4605 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor  
4606 other than a class A misdemeanor conviction for possession of a controlled substance in  
4607 violation of Subsection 58-37-8(2)(a)(i).
- 4608 (6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty  
4609 after trial, a plea of guilty, or a plea of nolo contendere.
- 4610 (7) "Department" means the Department of Public Safety established in Section  
4611 53-1-103.
- 4612 (8) "Drug possession offense" means an offense under:
- 4613 (a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i),  
4614 possession of 100 pounds or more of marijuana, any offense enhanced under Subsection  
4615 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a

4616 controlled substance illegally in the person's body and negligently causing serious bodily injury  
4617 or death of another;

4618 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

4619 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or

4620 (d) any local ordinance which is substantially similar to any of the offenses described  
4621 in this Subsection (8).

4622 (9) "Expunge" means to seal or otherwise restrict access to the individual's record held  
4623 by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

4624 (10) "Jurisdiction" means a state, district, province, political subdivision, territory, or  
4625 possession of the United States or any foreign country.

4626 (11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any  
4627 local ordinance, except:

4628 (a) any drug possession offense;

4629 (b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

4630 (c) Sections 73-18-13 through 73-18-13.6;

4631 (d) those offenses defined in Title 76, Utah Criminal Code; or

4632 (e) any local ordinance that is substantially similar to those offenses listed in  
4633 Subsections (11)(a) through (d).

4634 (12) "Petitioner" means an individual applying for expungement under this chapter.

4635 (13) (a) "Traffic offense" means:

4636 (i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41,  
4637 Chapter 6a, Traffic Code;

4638 (ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

4639 (iii) Title 73, Chapter 18, State Boating Act; and

4640 (iv) all local ordinances that are substantially similar to those offenses.

4641 (b) "Traffic offense" does not mean:

4642 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

4643 (ii) Sections 73-18-13 through 73-18-13.6; or

4644 (iii) any local ordinance that is substantially similar to the offenses listed in  
4645 Subsections (13)(b)(i) and (ii).

4646 Section 104. Section 77-40-105 is amended to read:

4647           **77-40-105. Requirements to apply for a certificate of eligibility to expunge**  
4648 **conviction.**

4649           (1) An individual convicted of an offense may apply to the bureau for a certificate of  
4650 eligibility to expunge the record of conviction as provided in this section.

4651           (2) An individual is not eligible to receive a certificate of eligibility from the bureau if:

4652           (a) the conviction for which expungement is sought is:

4653           (i) a capital felony;

4654           (ii) a first degree felony;

4655           (iii) a violent felony as defined in Subsection [76-3-203.5\(1\)\(c\)\(i\)](#);

4656           (iv) felony automobile homicide;

4657           (v) a felony conviction described in Subsection [41-6a-501\(2\)](#);

4658           (vi) a registerable sex offense as defined in Subsection [77-41-102\(17\)](#); or

4659           (vii) a registerable child abuse offense as defined in Subsection [77-43-102\(2\)](#);

4660           (b) a criminal proceeding is pending against the petitioner; or

4661           (c) the petitioner intentionally or knowingly provides false or misleading information  
4662 on the application for a certificate of eligibility.

4663           (3) A petitioner seeking to obtain expungement for a record of conviction is not  
4664 eligible to receive a certificate of eligibility from the bureau until all of the following have  
4665 occurred:

4666           (a) the petitioner has paid in full all fines and interest ordered by the court related to the  
4667 conviction for which expungement is sought;

4668           (b) the petitioner has paid in full all restitution ordered by the court [~~pursuant to~~  
4669 ~~Section [77-38a-302](#), or by the Board of Pardons and Parole pursuant to Section [77-27-6](#)]~~ under  
4670 Section [77-38b-205](#); and

4671           (c) the following time periods have elapsed from the date the petitioner was convicted  
4672 or released from incarceration, parole, or probation, whichever occurred last, for each  
4673 conviction the petitioner seeks to expunge:

4674           (i) 10 years in the case of a misdemeanor conviction of Subsection [41-6a-501\(2\)](#) or a  
4675 felony conviction of Subsection [58-37-8\(2\)\(g\)](#);

4676           (ii) seven years in the case of a felony;

4677           (iii) five years in the case of any class A misdemeanor or a felony drug possession

4678 offense;

4679 (iv) four years in the case of a class B misdemeanor; or

4680 (v) three years in the case of any other misdemeanor or infraction.

4681 (4) When determining whether to issue a certificate of eligibility, the bureau may not

4682 consider:

4683 (a) a petitioner's pending or previous:

4684 (i) infraction;

4685 (ii) traffic offense;

4686 (iii) minor regulatory offense; or

4687 (iv) clean slate eligible case that was automatically expunged in accordance with

4688 Section [77-40-114](#); or

4689 (b) a fine or fee related to an offense described in Subsection (4)(a).

4690 (5) The bureau may not issue a certificate of eligibility if, at the time the petitioner

4691 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,

4692 including previously expunged convictions, contains any of the following, except as provided

4693 in Subsection (8):

4694 (a) two or more felony convictions other than for drug possession offenses, each of

4695 which is contained in a separate criminal episode;

4696 (b) any combination of three or more convictions other than for drug possession

4697 offenses that include two class A misdemeanor convictions, each of which is contained in a

4698 separate criminal episode;

4699 (c) any combination of four or more convictions other than for drug possession

4700 offenses that include three class B misdemeanor convictions, each of which is contained in a

4701 separate criminal episode; or

4702 (d) five or more convictions other than for drug possession offenses of any degree

4703 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

4704 (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner

4705 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,

4706 including previously expunged convictions, contains any of the following:

4707 (a) three or more felony convictions for drug possession offenses, each of which is

4708 contained in a separate criminal episode; or



4709 (b) any combination of five or more convictions for drug possession offenses, each of  
4710 which is contained in a separate criminal episode.

4711 (7) If the petitioner's criminal history contains convictions for both a drug possession  
4712 offense and a non drug possession offense arising from the same criminal episode, that criminal  
4713 episode shall be counted as provided in Subsection (5) if any non drug possession offense in  
4714 that episode:

4715 (a) is a felony or class A misdemeanor; or

4716 (b) has the same or a longer waiting period under Subsection (3) than any drug  
4717 possession offense in that episode.

4718 (8) If at least 10 years have elapsed from the date the petitioner was convicted or  
4719 released from incarceration, parole, or probation, whichever occurred last, for all convictions,  
4720 then each eligibility limit defined in Subsection (5) shall be increased by one.

4721 (9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board  
4722 of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned  
4723 crimes pursuant to Section [77-27-5.1](#).

4724 Section 105. Section **78A-2-214** is amended to read:

4725 **78A-2-214. Collection of accounts receivable.**

4726 (1) As used in this section:

4727 (a) "Accounts receivable" means any amount due the state from an entity for which  
4728 payment has not been received by the state agency that is servicing the debt.

4729 (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments,  
4730 fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third  
4731 party claims, sale of goods, sale of services, claims, and damages.

4732 [~~(2) If the Department of Corrections does not have responsibility under Subsection~~  
4733 ~~[77-18-1\(9\)](#) for collecting an account receivable and if the Office of State Debt Collection does~~  
4734 ~~not have responsibility under Subsection [63A-3-502\(6\)](#), the district court shall collect the~~  
4735 ~~account receivable.]~~

4736 [(~~3~~)] (2) (a) In the juvenile court, money collected by the court from past-due accounts  
4737 receivable may be used to offset system, administrative, legal, and other costs of collection.

4738 (b) The juvenile court shall allocate money collected above the cost of collection on a  
4739 pro rata basis to the various revenue types that generated the accounts receivable.

4740            [~~(4)~~] (3) The interest charge established by the Office of State Debt Collection under  
4741 Subsection 63A-3-502(4)(g)(iii) may not be assessed on an account receivable subject to the  
4742 postjudgment interest rate established by Section 15-1-4.

4743            Section 106. Section 78A-2-231 is amended to read:

4744            **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

4745            (1) As used in this section:

4746            (a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

4747            (b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

4748            (c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

4749            (d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

4750            (e) "Medical cannabis card" means the same as that term is defined in Section

4751 26-61a-102.

4752            (f) "Medical cannabis device" means the same as that term is defined in Section

4753 26-61a-102.

4754            (g) "Qualified medical provider" means the same as that term is defined in Section

4755 26-61a-102.

4756            (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner  
4757 makes a finding, determination, or otherwise considers an individual's possession or use of  
4758 medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or  
4759 court commissioner may not consider or treat the individual's possession or use any differently  
4760 than the lawful possession or use of any prescribed controlled substance if:

4761            (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production  
4762 Establishments;

4763            (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

4764            (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah  
4765 Medical Cannabis Act; and

4766            (ii) the individual reasonably complies with the directions of use and dosing guidelines  
4767 determined by the individual's qualified medical provider or through a consultation described  
4768 in Subsection 26-61a-502(4) or (5).

4769            (3) Notwithstanding Sections [~~77-18-1~~] 77-18-105 and 77-2a-3, for probation, release,  
4770 a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah

4771 Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual  
4772 abstain from the use or possession of medical cannabis, a cannabis product, or a medical  
4773 cannabis device, either directly or through a general prohibition on violating federal law,  
4774 without an exception related to medical cannabis use, if the individual's use or possession  
4775 complies with:

4776 (a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

4777 (b) Subsection [58-37-3.7\(2\)](#) or (3).

4778 Section 107. Section **78B-2-115** is amended to read:

4779 **78B-2-115. Actions by state or other governmental entity.**

4780 Except for the provisions of Section [78B-2-116](#), and the collection of criminal fines,  
4781 fees, and restitution by the Office of State Debt Collection in accordance with [Section  
4782 [63A-3-502](#) and Title 77, Chapter 32a, ~~Criminal Accounts Receivable and Defense Costs~~]  
4783 Sections [63A-3-502](#), [77-32b-103](#), and [77-18-114](#), the limitations in this chapter apply to  
4784 actions brought in the name of or for the benefit of the state or other governmental entity the  
4785 same as to actions by private parties.

4786 Section 108. Section **78B-5-502** is amended to read:

4787 **78B-5-502. Definitions.**

4788 As used in this part:

4789 (1) "Civil accounts receivable" means the same as that term is defined in Section  
4790 [77-32b-102](#).

4791 (2) "Civil judgment of restitution" means the same as that term is defined in Section  
4792 [77-32b-102](#).

4793 [(1)] (3) "Debt" means a legally enforceable monetary obligation or liability of an  
4794 individual, whether arising out of contract, tort, or otherwise.

4795 [(2)] (4) "Dependent" means the spouse of an individual, and the grandchild or the  
4796 natural or adoptive child of an individual who derives support primarily from that individual.

4797 [(3)] (5) "Exempt" means protected, and "exemption" means protection from  
4798 subjection to a judicial process to collect an unsecured debt.

4799 [(4)] (6) "Judicial lien" means a lien on property obtained by judgment or other legal  
4800 process instituted for the purpose of collecting an unsecured debt.

4801 [(5)] (7) "Levy" means the seizure of property pursuant to any legal process issued for

4802 the purpose of collecting an unsecured debt.

4803        ~~[(6)]~~ (8) "Lien" means a judicial, or statutory lien, in property securing payment of a  
4804 debt or performance of an obligation.

4805        ~~[(7)]~~ (9) "Liquid assets" means deposits, securities, notes, drafts, unpaid earnings not  
4806 otherwise exempt, accrued vacation pay, refunds, prepayments, and other receivables.

4807        ~~[(8)]~~ (10) "Security interest" means an interest in property created by contract to secure  
4808 payment or performance of an obligation.

4809        ~~[(9)]~~ (11) "Statutory lien" means a lien arising by force of a statute, but does not  
4810 include a security interest or a judicial lien.

4811        ~~[(10)]~~ (12) "Value" means fair market value of an individual's interest in property,  
4812 exclusive of valid liens.

4813        Section 109. Section **78B-5-505** is amended to read:

4814        **78B-5-505. Property exempt from execution.**

4815        (1) (a) An individual is entitled to exemption of the following property:

4816            (i) a burial plot for the individual and the individual's family;

4817            (ii) health aids reasonably necessary to enable the individual or a dependent to work or  
4818 sustain health;

4819            (iii) benefits that the individual or the individual's dependent have received or are  
4820 entitled to receive from any source because of:

4821                (A) disability;

4822                (B) illness; or

4823                (C) unemployment;

4824            (iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the  
4825 benefits are used by an individual or the individual's dependent to pay for that care;

4826            (v) veterans benefits;

4827            (vi) money or property received, and rights to receive money or property for child  
4828 support;

4829            (vii) money or property received, and rights to receive money or property for alimony  
4830 or separate maintenance, to the extent reasonably necessary for the support of the individual  
4831 and the individual's dependents;

4832            (viii) (A) one:

- 4833 (I) clothes washer and dryer;
- 4834 (II) refrigerator;
- 4835 (III) freezer;
- 4836 (IV) stove;
- 4837 (V) microwave oven; and
- 4838 (VI) sewing machine;
- 4839 (B) all carpets in use;
- 4840 (C) provisions sufficient for 12 months actually provided for individual or family use;
- 4841 (D) all wearing apparel of every individual and dependent, not including jewelry or
- 4842 furs; and
- 4843 (E) all beds and bedding for every individual or dependent;
- 4844 (ix) except for works of art held by the debtor as part of a trade or business, works of
- 4845 art:
- 4846 (A) depicting the debtor or the debtor and the debtor's resident family; or
- 4847 (B) produced by the debtor or the debtor and the debtor's resident family;
- 4848 (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a
- 4849 result of bodily injury of the individual or of the wrongful death or bodily injury of another
- 4850 individual of whom the individual was or is a dependent to the extent that those proceeds are
- 4851 compensatory;
- 4852 (xi) the proceeds or benefits of any life insurance contracts or policies paid or payable
- 4853 to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or
- 4854 children of the debtor, provided that the contract or policy has been owned by the debtor for a
- 4855 continuous unexpired period of one year;
- 4856 (xii) the proceeds or benefits of any life insurance contracts or policies paid or payable
- 4857 to the spouse or children of the debtor or any trust of which the spouse or children are
- 4858 beneficiaries upon the death of the debtor, provided that the contract or policy has been in
- 4859 existence for a continuous unexpired period of one year;
- 4860 (xiii) proceeds and avails of any unexpired life insurance contracts owned by the
- 4861 debtor or any revocable grantor trust created by the debtor, excluding any payments made on
- 4862 the contract during the one year immediately preceding a creditor's levy or execution;
- 4863 (xiv) except as provided in Subsection (1)(b), and except for a judgment described in

4864 Subsection 75-7-503(2)(c), any money or other assets held for or payable to the individual as  
4865 an owner, participant, or beneficiary from or an interest of the individual as an owner,  
4866 participant, or beneficiary in a fund or account, including an inherited fund or account, in a  
4867 retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a),  
4868 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a  
4869 participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or  
4870 otherwise;

4871 (xv) the interest of or any money or other assets payable to an alternate payee under a  
4872 qualified domestic relations order as those terms are defined in Section 414(p), Internal  
4873 Revenue Code;

4874 (xvi) unpaid earnings of the household of the filing individual due as of the date of the  
4875 filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family  
4876 income for the household size of the filing individual as determined by the Utah State Annual  
4877 Median Family Income reported by the United States Census Bureau and as adjusted based  
4878 upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid  
4879 earnings are paid more often than once a month or, if unpaid earnings are not paid more often  
4880 than once a month, then in the amount of 1/12 of the Utah State annual median family income  
4881 for the household size of the individual as determined by the Utah State Annual Median Family  
4882 Income reported by the United States Census Bureau and as adjusted based upon the Consumer  
4883 Price Index for All Urban Consumers;

4884 (xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of  
4885 the following:

4886 (A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;  
4887 (B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and  
4888 (C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000  
4889 rounds; and

4890 (xviii) money, not exceeding \$200,000, in the aggregate, that an individual deposits,  
4891 more than 18 months before the day on which the individual files a petition for bankruptcy or  
4892 an action is filed by a creditor against the individual, as applicable, in all tax-advantaged  
4893 accounts for saving for higher education costs on behalf of a particular individual that meets  
4894 the requirements of Section 529, Internal Revenue Code.

4895 (b) (i) Any money, asset, or other interest in a fund or account that is exempt from a  
4896 claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does  
4897 not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a  
4898 direct transfer or eligible rollover to an inherited individual retirement account as defined in  
4899 Section 408(d)(3), Internal Revenue Code.

4900 (ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement  
4901 accounts without regard to the date on which the account was created.

4902 (c) (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

4903 (A) an alternate payee under a qualified domestic relations order, as those terms are  
4904 defined in Section 414(p), Internal Revenue Code; or

4905 (B) amounts contributed or benefits accrued by or on behalf of a debtor within one year  
4906 before the debtor files for bankruptcy, except amounts directly rolled over from other funds  
4907 that are exempt from attachment under this section.

4908 (ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the  
4909 secured creditor's interest in proceeds and avails of any matured or unmatured life insurance  
4910 contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

4911 (2) (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans  
4912 benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a ~~child-victim~~  
4913 victim who is a child if the person receiving the benefits has been convicted of a felony sex  
4914 offense against ~~a child~~ the victim and ordered by the ~~convicting~~ sentencing court to pay  
4915 restitution to the victim.

4916 (b) The exemption from execution under this ~~section~~ Subsection (2) shall be  
4917 reinstated upon payment of the restitution in full.

4918 (3) ~~Exemptions~~ The exemptions under this section do not limit items that may be  
4919 claimed as exempt under Section [78B-5-506](#).

4920 (4) (a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii),  
4921 (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil  
4922 judgment of restitution for an individual who is found in contempt under Section [78B-6-317](#).

4923 (b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if  
4924 the individual's dependent received, or is entitled to receive, the benefits.

4925 Section 110. Section **78B-6-317** is amended to read:

4926           **78B-6-317. Willful failure to pay a civil accounts receivable or a civil judgment of**  
4927 **restitution.**

4928           (1) As used in this section:

4929           (a) "Civil accounts receivable" means the same as that term is defined in Section  
4930 77-32b-102.

4931           (b) "Civil judgment of restitution" means the same as that term is defined in Section  
4932 77-32b-102.

4933           (c) "Default" means the same as that term is defined in Section 77-32b-102.

4934           (d) "Delinquent" means the same as that term is defined in Section 77-32b-102.

4935           ~~[(1)]~~ (2) If a [criminal judgment accounts receivable has become delinquent as defined  
4936 in Section 77-32a-101] a civil accounts receivable or a civil judgment of restitution, is  
4937 delinquent or in default, the court, by motion of the [prosecutor] prosecuting attorney, a  
4938 judgment creditor, [the Office of State Debt Collection,] or on the court's own motion, may  
4939 order the defendant to appear and show cause why the delinquency or default should not be  
4940 treated as contempt of court[, as provided in this section] under this section.

4941           ~~[(2)]~~ (3) (a) The moving party or [a court clerk] a clerk of the court shall provide a  
4942 declaration outlining:

4943           (i) the nature of the debt [and the delinquency.];

4944           (ii) the way in which the civil accounts receivable or civil judgment of restitution is  
4945 delinquent or in default;

4946           (iii) if the moving party is the Office of State Debt Collection, the attempts that have  
4947 been made to collect the civil accounts receivable or the civil judgment of restitution before  
4948 moving for an order to show cause; and

4949           (iv) if the moving party is not the Office of State Debt Collection, that the defendant  
4950 has failed to comply with any payment agreement that the defendant has with the Office of  
4951 State Debt Collection.

4952           (b) Upon receipt of ~~[that]~~ a declaration under Subsection (3)(a), the court shall:

4953           (i) set the matter for a hearing; and

4954           (ii) provide notice of the hearing to the defendant by mailing notice of the hearing to  
4955 the defendant's last known address and by any other means the court finds likely to provide  
4956 defendant notice of the hearing.



4957            [(i)] (c) If it appears to the court that the defendant is not likely to appear at the hearing,  
4958 the court may issue an arrest warrant with a bail amount reasonably likely to guarantee the  
4959 defendant's appearance.

4960            [(ii)] (d) If the defendant is a corporation or an unincorporated association, the court  
4961 shall cite the person authorized to make disbursement from the assets of the corporation or  
4962 association to appear to answer for the alleged contempt.

4963            (3) At the hearing, the defendant is entitled to be:

4964            (a) represented by counsel; and[;]

4965            (b) if the court is considering a period of incarceration as a potential sanction,  
4966 appointed counsel [~~if the defendant is indigent~~] if the court determines that the defendant is  
4967 indigent in accordance with Title 78B, Chapter 22, Indigent Defense Act.

4968            (4) To find the defendant in contempt, the court shall find beyond a reasonable doubt  
4969 that the defendant:

4970            (a) was aware of the obligation to pay the [~~criminal judgment accounts receivable~~] civil  
4971 accounts receivable or the civil judgment of restitution;

4972            (b) had the capacity to [~~pay the criminal judgment accounts receivable in the manner~~  
4973 ~~ordered by the court~~] make a payment towards the civil accounts receivable or the civil  
4974 judgment of restitution; and

4975            (c) [~~did not make a good faith effort to make the payments~~] failed to make a payment  
4976 towards the civil accounts receivable or the civil judgment of restitution.

4977            (5) [~~H~~] Subject to the limitations in Subsections (6) through (8), if the court finds the  
4978 defendant in contempt for nonpayment, the court may impose the sanctions for contempt [~~as~~  
4979 ~~provided in~~] under Section 78B-6-310[~~, subject to the limitations in Subsections (6) through~~  
4980 ~~(8)~~].

4981            (6) If the court imposes a jail sanction for the contempt, the number of jail days may  
4982 not exceed one day for each \$100 of the amount the court finds was contemptuously unpaid[;  
4983 ~~up to~~] with a maximum of:

4984            (a) five days for contempt arising from a class B misdemeanor or lesser offense[;]; and

4985            (b) 30 days for a class A misdemeanor or felony offense.

4986            (7) (a) Any jail sanction imposed for contempt under this section shall serve to satisfy  
4987 the [~~criminal judgment account receivable~~] civil accounts receivable at \$100 for each day

4988 served. [~~Amounts satisfied under this Subsection (7) may not include restitution amounts~~  
4989 ~~ordered by the court in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act.]~~

4990 (b) Subsection (7)(a) does not apply to a civil judgment of restitution.

4991 [~~(8) Any financial penalty authorized by Section [78B-6-310](#) and ordered by the court~~  
4992 ~~may only become due after the satisfaction of the original criminal account receivable.]~~

4993 (8) A financial penalty ordered by the court under Section [78B-6-310](#) may only become  
4994 due after the satisfaction of the civil accounts receivable or the civil judgment of restitution.

4995 (9) The order of the court finding the defendant in contempt and ordering sanctions is a  
4996 final appealable order.

4997 Section 111. Section **78B-7-804** is amended to read:

4998 **78B-7-804. Sentencing and continuous protective orders for a domestic violence**  
4999 **offense -- Modification.**

5000 (1) Before a perpetrator who has been convicted of a domestic violence offense may be  
5001 placed on probation, the court shall consider the safety and protection of the victim and any  
5002 member of the victim's family or household.

5003 (2) The court may condition probation or a plea in abeyance on the perpetrator's  
5004 compliance with a sentencing protective order that includes:

5005 (a) an order enjoining the perpetrator from threatening to commit or committing acts of  
5006 domestic violence against the victim or other family or household member;

5007 (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or  
5008 otherwise communicating with the victim, directly or indirectly;

5009 (c) an order requiring the perpetrator to stay away from the victim's residence, school,  
5010 place of employment, and the premises of any of these, or a specified place frequented  
5011 regularly by the victim or any designated family or household member;

5012 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm  
5013 or other specified weapon;

5014 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or  
5015 possesses; and

5016 (f) an order imposing any other condition necessary to protect the victim and any other  
5017 designated family or household member or to rehabilitate the perpetrator.

5018 (3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence

5019 crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of  
5020 continued acts of violence subsequent to the release of a perpetrator who is convicted of  
5021 domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the  
5022 issuance of continuous protective orders under this Subsection (3) because of the need to  
5023 provide ongoing protection for the victim and to be consistent with the purposes of protecting  
5024 victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter 38, Rights of  
5025 Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

5026 (b) If a perpetrator is convicted of a domestic violence offense resulting in a sentence  
5027 of imprisonment, including jail, that is to be served after conviction, the court shall issue a  
5028 continuous protective order at the time of the conviction or sentencing limiting the contact  
5029 between the perpetrator and the victim unless the court determines by clear and convincing  
5030 evidence that the victim does not have a reasonable fear of future harm or abuse.

5031 (c) (i) The court shall notify the perpetrator of the right to request a hearing.

5032 (ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall  
5033 hold the hearing at the time determined by the court. The continuous protective order shall be  
5034 in effect while the hearing is being scheduled and while the hearing is pending.

5035 (d) A continuous protective order is permanent in accordance with this Subsection (3)  
5036 and may include:

5037 (i) an order enjoining the perpetrator from threatening to commit or committing acts of  
5038 domestic violence against the victim or other family or household member;

5039 (ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or  
5040 otherwise communicating with the victim, directly or indirectly;

5041 (iii) an order prohibiting the perpetrator from going to the victim's residence, school,  
5042 place of employment, and the premises of any of these, or a specified place frequented  
5043 regularly by the victim or any designated family or other household member;

5044 (iv) an order directing the perpetrator to pay restitution to the victim as may apply, and  
5045 shall be enforced in accordance with Title 77, Chapter ~~38a~~ 38b, Crime Victims Restitution  
5046 Act; and

5047 (v) any other order the court considers necessary to fully protect the victim and  
5048 members of the victim's family or other household member.

5049 (4) A continuous protective order may be modified or dismissed only if the court

5050 determines by clear and convincing evidence that all requirements of Subsection (3) have been  
5051 met and the victim does not have a reasonable fear of future harm or abuse.

5052 (5) In addition to the process of issuing a continuous protective order described in  
5053 Subsection (3), a district court may issue a continuous protective order at any time if the victim  
5054 files a petition with the court, and after notice and hearing the court finds that a continuous  
5055 protective order is necessary to protect the victim.

5056 Section 112. **Repealer.**

5057 This bill repeals:

5058 Section **76-6-412.5, Property damage caused in the course of committing a theft.**

5059 Section **77-18-1, Suspension of sentence -- Pleas held in abeyance -- Probation --**  
5060 **Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and**  
5061 **conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic**  
5062 **monitoring.**

5063 Section **77-18-6, Judgment to pay fine or restitution constitutes a lien.**

5064 Section **77-27-6, Payment of restitution.**

5065 Section **77-32a-102, Creation of criminal judgment account receivable.**

5066 Section **77-32a-103, Past due accounts or payments -- Authority to send to Office**  
5067 **of State Debt Collection independent of probation status -- Expiration.**

5068 Section **77-32a-104, Delinquency and default as contempt of court.**

5069 Section **77-32a-105, Accounts with balances at termination of probation.**

5070 Section **77-32a-106, Transfer of collection responsibility does not affect probation.**

5071 Section **77-32a-108, Ability to pay considered.**

5072 Section **77-32a-109, Petition for remission of payment of costs.**

5073 Section **77-38a-201, Restitution determination -- Law enforcement duties and**  
5074 **responsibilities.**

5075 Section **77-38a-202, Restitution determination -- Prosecution duties and**  
5076 **responsibilities.**

5077 Section **77-38a-203, Restitution determination -- Department of Corrections --**  
5078 **Presentence investigation.**

5079 Section **77-38a-301, Restitution -- Convicted defendant may be required to pay.**

5080 Section **77-38a-302, Restitution criteria.**

- 5081 Section [77-38a-401](#), Entry of judgment -- Interest -- Civil actions -- Lien.
- 5082 Section [77-38a-402](#), Nondischargeability in bankruptcy.
- 5083 Section [77-38a-403](#), Civil action by victim for damages.
- 5084 Section [77-38a-501](#), Default and sanctions.