

**Representative Karianne Lisonbee** proposes the following substitute bill:

**CRIMINAL JUSTICE MODIFICATIONS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

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

**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



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

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

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

119 and

120       ▶ makes technical and conforming changes.

121 **Money Appropriated in this Bill:**

122       None

123 **Other Special Clauses:**

124       This bill provides a special effective date.

125 **Utah Code Sections Affected:**

126 AMENDS:

127       **17-50-319**, as last amended by Laws of Utah 2016, Chapter 243

128       **32B-4-305**, as enacted by Laws of Utah 2010, Chapter 276

129       **58-50-2**, as last amended by Laws of Utah 2006, Chapter 196

130       **58-50-9**, as last amended by Laws of Utah 1995, Chapters 20 and 352

131       **58-50-10**, as last amended by Laws of Utah 1995, Chapters 20 and 352

132       **59-10-529**, as last amended by Laws of Utah 2017, Chapter 270

133       **62A-15-625**, as last amended by Laws of Utah 2018, Chapter 322

134       **63A-3-501**, as last amended by Laws of Utah 2016, Chapters 129 and 298

135       **63A-3-502**, as last amended by Laws of Utah 2017, Chapters 56 and 304

136       **63A-3-504**, as renumbered and amended by Laws of Utah 2011, Chapter 79

137       **63A-3-505**, as last amended by Laws of Utah 2016, Chapter 192

138       **63A-3-507**, as last amended by Laws of Utah 2019, Chapter 269

139       **63I-1-263**, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230,

140 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws

141 of Utah 2020, Chapter 360

142       **63M-7-303**, as last amended by Laws of Utah 2018, Chapter 414

143       **63M-7-305**, as last amended by Laws of Utah 2016, Chapters 158 and 191

144       **63M-7-502**, as last amended by Laws of Utah 2020, Chapters 149 and 230

145       **63M-7-503**, as last amended by Laws of Utah 2020, Chapter 149

146       **63M-7-513**, as last amended by Laws of Utah 2020, Chapter 149

147       **64-13-1**, as last amended by Laws of Utah 2016, Chapter 243

148       **64-13-6**, as last amended by Laws of Utah 2018, Chapter 200

149       **64-13-21**, as last amended by Laws of Utah 2019, Chapter 27

- 150 [64-13-23](#), as last amended by Laws of Utah 2002, Chapter 140
- 151 [64-13-33](#), as last amended by Laws of Utah 2009, Chapter 258
- 152 [64-13e-102](#), as last amended by Laws of Utah 2020, Chapters 354 and 410
- 153 [75-7-503](#), as last amended by Laws of Utah 2018, Chapter 116
- 154 [76-2-404](#), as last amended by Laws of Utah 2015, Chapter 47
- 155 [76-3-208](#), as last amended by Laws of Utah 2019, Chapter 222
- 156 [76-3-301.5](#), as enacted by Laws of Utah 1988, Chapter 152
- 157 [76-3-406](#), as last amended by Laws of Utah 2020, Chapter 214
- 158 [76-6-107.1](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 159 [76-6-111](#), as last amended by Laws of Utah 2017, Chapter 345
- 160 [76-6-206.2](#), as last amended by Laws of Utah 2009, Chapter 344
- 161 [76-6-206.3](#), as enacted by Laws of Utah 2009, Chapter 270
- 162 [76-6-1102](#), as last amended by Laws of Utah 2015, Chapter 258
- 163 [76-6-1105](#), as last amended by Laws of Utah 2018, Chapter 221
- 164 [76-10-1204](#), as last amended by Laws of Utah 2009, Chapter 345
- 165 [76-10-1205](#), as last amended by Laws of Utah 2007, Chapter 337
- 166 [76-10-1206](#), as last amended by Laws of Utah 2019, Chapters 189 and 382
- 167 [76-10-1214](#), as last amended by Laws of Utah 1990, Chapter 163
- 168 [76-10-1228](#), as last amended by Laws of Utah 2007, Chapter 123
- 169 [77-1-3](#), as last amended by Laws of Utah 2015, Chapter 412
- 170 [77-2-2](#), as enacted by Laws of Utah 1980, Chapter 15
- 171 [77-2-5](#), as enacted by Laws of Utah 1980, Chapter 15
- 172 [77-2a-1](#), as enacted by Laws of Utah 1993, Chapter 82
- 173 [77-2a-3](#), as last amended by Laws of Utah 2008, Chapters 3, 339, and 382
- 174 [77-7-5](#), as last amended by Laws of Utah 2019, Chapter 406
- 175 [77-7-21](#), as last amended by Laws of Utah 2020, Chapter 185
- 176 [77-19-10](#), as last amended by Laws of Utah 2015, Chapter 47
- 177 [77-20-4](#), as last amended by Laws of Utah 2020, Chapter 185
- 178 [77-20b-101](#), as last amended by Laws of Utah 2020, Chapter 185
- 179 [77-27-1](#), as last amended by Laws of Utah 2015, Chapter 412
- 180 [77-27-2](#), as last amended by Laws of Utah 2020, Chapters 352 and 373

- 181 [77-27-5](#), as last amended by Laws of Utah 2019, Chapter 148
- 182 [77-27-11](#), as last amended by Laws of Utah 2018, Chapter 334
- 183 [77-30-24](#), as last amended by Laws of Utah 1987, Chapter 107
- 184 [77-37-3](#), as last amended by Laws of Utah 2014, Chapter 232
- 185 [77-37-5](#), as last amended by Laws of Utah 2011, Chapter 131
- 186 [77-38-3](#), as last amended by Laws of Utah 2016, Chapter 223
- 187 [77-38-15](#), as last amended by Laws of Utah 2019, Chapter 26
- 188 [77-40-102](#), as last amended by Laws of Utah 2020, Chapter 354
- 189 [77-40-105](#), as last amended by Laws of Utah 2020, Chapters 177 and 218
- 190 [78A-2-214](#), as last amended by Laws of Utah 2011, Chapter 79
- 191 [78A-2-231](#), as last amended by Laws of Utah 2020, Chapter 12
- 192 [78B-2-115](#), as last amended by Laws of Utah 2017, Chapter 304
- 193 [78B-5-502](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 194 [78B-5-505](#), as last amended by Laws of Utah 2020, Chapter 425
- 195 [78B-6-317](#), as enacted by Laws of Utah 2017, Chapter 304
- 196 [78B-7-804](#), as enacted by Laws of Utah 2020, Chapter 142

197 ENACTS:

- 198 [77-18-101](#), Utah Code Annotated 1953
- 199 [77-18-102](#), Utah Code Annotated 1953
- 200 [77-18-103](#), Utah Code Annotated 1953
- 201 [77-18-105](#), Utah Code Annotated 1953
- 202 [77-18-106](#), Utah Code Annotated 1953
- 203 [77-18-107](#), Utah Code Annotated 1953
- 204 [77-18-108](#), Utah Code Annotated 1953
- 205 [77-18-109](#), Utah Code Annotated 1953
- 206 [77-18-114](#), Utah Code Annotated 1953
- 207 [77-18-118](#), Utah Code Annotated 1953
- 208 [77-27-6.1](#), Utah Code Annotated 1953
- 209 [77-32b-101](#), Utah Code Annotated 1953
- 210 [77-32b-103](#), Utah Code Annotated 1953
- 211 [77-32b-105](#), Utah Code Annotated 1953

- 212 [77-32b-106](#), Utah Code Annotated 1953
- 213 [77-38b-201](#), Utah Code Annotated 1953
- 214 [77-38b-202](#), Utah Code Annotated 1953
- 215 [77-38b-203](#), Utah Code Annotated 1953
- 216 [77-38b-205](#), Utah Code Annotated 1953
- 217 [77-38b-301](#), Utah Code Annotated 1953
- 218 [77-38b-302](#), Utah Code Annotated 1953
- 219 [77-38b-303](#), Utah Code Annotated 1953

220 REPEALS AND REENACTS:

- 221 [76-3-201](#), as last amended by Laws of Utah 2017, Chapter 304

222 RENUMBERS AND AMENDS:

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

243 Utah 2017, Chapter 304)  
244 [77-32b-107](#), (Renumbered from 77-32a-110, as renumbered and amended by Laws of  
245 Utah 2017, Chapter 304)  
246 [77-38b-101](#), (Renumbered from 77-38a-101, as enacted by Laws of Utah 2001, Chapter  
247 137)  
248 [77-38b-102](#), (Renumbered from 77-38a-102, as last amended by Laws of Utah 2020,  
249 Chapter 214)  
250 [77-38b-204](#), (Renumbered from 77-38a-204, as enacted by Laws of Utah 2013, Chapter  
251 74)  
252 [77-38b-304](#), (Renumbered from 77-38a-404, as last amended by Laws of Utah 2020,  
253 Chapter 214)  
254 [77-38b-401](#), (Renumbered from 77-38a-502, as enacted by Laws of Utah 2001, Chapter  
255 137)  
256 [77-38b-402](#), (Renumbered from 77-38a-601, as last amended by Laws of Utah 2009,  
257 Chapter 265)  
258 REPEALS:  
259 [76-6-412.5](#), as last amended by Laws of Utah 2013, Chapter 187  
260 [77-18-1](#), as last amended by Laws of Utah 2020, Chapters 209, 299, and 354  
261 [77-18-6](#), as last amended by Laws of Utah 2017, Chapter 304  
262 [77-27-6](#), as last amended by Laws of Utah 2016, Chapter 223  
263 [77-32a-102](#), as last amended by Laws of Utah 2018, Chapters 136 and 281  
264 [77-32a-103](#), as enacted by Laws of Utah 2017, Chapter 304  
265 [77-32a-104](#), as enacted by Laws of Utah 2017, Chapter 304  
266 [77-32a-105](#), as enacted by Laws of Utah 2017, Chapter 304  
267 [77-32a-106](#), as enacted by Laws of Utah 2017, Chapter 304  
268 [77-32a-108](#), as renumbered and amended by Laws of Utah 2017, Chapter 304  
269 [77-32a-109](#), as renumbered and amended by Laws of Utah 2017, Chapter 304  
270 [77-38a-201](#), as enacted by Laws of Utah 2001, Chapter 137  
271 [77-38a-202](#), as last amended by Laws of Utah 2011, Chapter 131  
272 [77-38a-203](#), as last amended by Laws of Utah 2013, Chapter 74  
273 [77-38a-301](#), as last amended by Laws of Utah 2017, Chapter 304

274 [77-38a-302](#), as last amended by Laws of Utah 2020, Chapter 214  
 275 [77-38a-401](#), as last amended by Laws of Utah 2018, Chapter 281  
 276 [77-38a-402](#), as enacted by Laws of Utah 2001, Chapter 137  
 277 [77-38a-403](#), as enacted by Laws of Utah 2001, Chapter 137  
 278 [77-38a-501](#), as last amended by Laws of Utah 2017, Chapter 304



279  
280 *Be it enacted by the Legislature of the state of Utah:*

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

282 **17-50-319. County charges enumerated.**

283 (1) County charges are:

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

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

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

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

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

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

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

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

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

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

305 (k) subject to Subsection (2), expenses incurred by a health care facility or provider in  
306 providing medical services, treatment, hospitalization, or related transportation, at the request  
307 of a county sheriff for:

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

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

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

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

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

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

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

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

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

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

336 (i) for a health care facility, the current noncapitated state Medicaid rates; and  
337 (ii) for a health care provider, 65% of the amount that would be paid to the health care  
338 provider:

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

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

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

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

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

349 **32B-4-305. Additional criminal penalties.**

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

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

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

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

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

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

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

367 manner that makes the information available to the public.

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

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

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

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

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

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

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

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

389 (i) a health care practitioner; or

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

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

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

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

398 of revocation; and

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

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

403 **58-50-2. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

431 **58-50-9. Standards of conduct for private probation providers.**

432 The private probation provider:

433 (1) shall maintain impartiality toward all parties;

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

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

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

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

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

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

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

451 **58-50-10. Exceptions from licensure.**

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

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

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

459 (3) agencies of local government ~~[, pursuant to Section 77-18-1]~~ in accordance with

460 Section 77-18-105.

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

462 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

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

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

466 (b) against:

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

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

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

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

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

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

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

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

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

490 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child

491 support specified in the notice; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

520 (c) (i) If a taxpayer fails to respond to the notice required by Subsection (5)(b), or to  
521 resolve the warrant within 40 days after the notice is sent under Subsection (5)(b), the

522 overpayment applied as bail is forfeited.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

580 **62A-15-625. Voluntary admission of adults.**

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

584 symptoms of a mental illness.

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

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

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

591 **63A-3-501. Definitions.**

592 As used in this part:

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

596 (b) "Accounts receivable" includes:

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

600 (ii) a civil accounts receivable; and

601 (iii) a civil judgment of restitution.

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

603 (2) "Administrative offset" means:

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

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

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

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

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

614 [~~(3)~~] (6) "Entity" means an individual, a corporation, partnership, or other organization

615 that pays taxes to<sub>2</sub> or does business<sub>2</sub> with the state.

616 ~~[(4)]~~ (7) "Office" means the Office of State Debt Collection [~~established by this part~~]  
617 created in Section 63A-3-502.

618 ~~[(5)]~~ (8) "Past due" means any accounts receivable that the state has not received by the  
619 payment due date.

620 ~~[(6)]~~ (9) "Political subdivision" means the same as that term is defined in Section  
621 63G-7-102.

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

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

625 ~~[(8)]~~ (11) (a) "State agency" includes:

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

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

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

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

638 ~~[(9)]~~ (12) "Writing-off" means the removal of an accounts receivable from an agency's  
639 accounts receivable records but does not necessarily eliminate further collection efforts.

640 Section 9. Section **63A-3-502** is amended to read:

641 **63A-3-502. Office of State Debt Collection created -- Duties.**

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

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

677 (p) allocate money collected for ~~[judgments registered under Section 77-18-6]~~ a  
678 judgment entered on the civil judgment docket under Section [77-18-114](#) in accordance with  
679 Sections [51-9-402](#), [63A-3-506](#), and [78A-5-110](#)~~[:]~~; and

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

683 (4) The office may:

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

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

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

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

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

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

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

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

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

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

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

705 (iii) an interest charge that is:

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

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

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

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

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

715 ~~[(j) file a satisfaction of judgment in the court by following the procedures and  
716 requirements of the Utah Rules of Civil Procedure;]~~

717 [(j) for a case that is referred to the office or in which the office is a judgment creditor,  
718 file a motion or other document related to the office or the accounts receivable in that case,  
719 including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;

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

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

726 (m) enter into written agreements with other governmental agencies to obtain and share  
727 information for the purpose of collecting state accounts receivable ~~[and restitution for victims];~~  
728 and

729 (n) collect accounts receivable for a political subdivision of the state~~;~~ if the political  
730 subdivision enters into an agreement or contract with the office under Title 11, Chapter 13,  
731 Interlocal Cooperation Act, for the office to collect the political subdivision's accounts  
732 receivable.

733 (5) The office shall ensure that:

734 (a) a record obtained by the office or a private sector vendor ~~[as referred to in]~~ under  
735 Subsection (4)(l):

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

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

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

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

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

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

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

748 (b) The office may not assess:

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

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

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

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

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

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

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

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

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

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

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

- 770 (a) are penalties that may be charged by the office; [~~and~~]
- 771 (b) do not require an order from a court for the office to assess or collect;
- 772 [~~(b)~~] (c) are not compensation for actual pecuniary loss[-];
- 773 (d) for a civil accounts receivable:
- 774 (i) begin to accrue on the day on which the civil accounts receivable is entered on the
- 775 civil judgment docket under Subsection 77-18-114(1) or (2); and
- 776 (ii) may be collected as part of the civil accounts receivable;
- 777 (e) for a civil judgment of restitution:
- 778 (i) begin to accrue on the day on which the civil judgment of restitution is entered on
- 779 the civil judgment docket under Subsection 77-18-114(1); and
- 780 (ii) may be collected as part of the civil judgment of restitution;
- 781 (f) for all other accounts receivable:
- 782 (i) begin to accrue on the day on which the accounts receivable is transferred to the
- 783 office, even if there is no court order on the day on which the accounts receivable is
- 784 transferred; and
- 785 (ii) may be collected as part of the accounts receivable; and
- 786 (g) may be waived by:
- 787 (i) the office; or
- 788 (ii) if the interest, fee, or other amount is charged in error, the court.

789 Section 10. Section 63A-3-504 is amended to read:

790 **63A-3-504. Rulemaking authority -- Collection techniques.**

791 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
792 office shall make rules:

- 793 (1) providing details, as necessary, for the distribution of debts collected in accordance
- 794 with the priorities under Subsection 63A-3-505(3); [~~and~~]
- 795 (2) to govern collection techniques, which may include the use of:
- 796 (a) credit reporting bureaus;
- 797 (b) collection agencies;
- 798 (c) garnishments;
- 799 (d) liens;
- 800 (e) judgments; and

801 (f) administrative offsets[-]; and  
802 (3) establishing that any portion of a payment for a civil judgment of restitution be  
803 credited to principal first and, if the principal amount owed for the civil judgment of restitution  
804 has been satisfied, the remainder of the payment be credited to interest that has accrued on the  
805 principal.

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

807 **63A-3-505. State Debt Collection Fund.**

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

810 (2) The fund consists of:

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

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

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

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

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

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

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

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

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

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

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

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

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

830 **63A-3-507. Administrative garnishment order.**

831 (1) [~~H~~] Subject to Subsection (2), if a judgment is entered against a debtor, the office

832 may~~[, subject to Subsection (2),]~~ issue an administrative garnishment order against the debtor's  
833 personal property, including wages, in the possession of a party other than the debtor in the  
834 same manner and with the same effect as if the order was a writ of garnishment issued by a  
835 court with jurisdiction.

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

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

838 (b) the underlying debt is for:

839 (i) nonpayment of ~~[a criminal judgment accounts receivable as defined in Section~~

840 ~~77-32a-101]~~ a civil accounts receivable or a civil judgment of restitution; or

841 (ii) nonpayment of a judgment, or abstract of judgment or award filed with a court,

842 based on an administrative order for payment issued by an agency of the state.

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

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

847 (a) contain a statement that includes:

848 (i) if known:

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

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

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

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

853 (iv) the name, address, and phone number of any person known to the plaintiff to claim

854 an interest in the property; and

855 (v) that the plaintiff has attached or will serve the garnishee fee established in Section

856 78A-2-216;

857 (b) identify the defendant, including:

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

859 (ii) if known:

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

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

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

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

- 894 (ii) reasonable costs; and
- 895 (iii) attorney fees incurred by the parties as a result of the garnishee's failure.
- 896 (c) If the garnishee shows that the steps taken to secure the property were reasonable,
- 897 the court may excuse the garnishee's liability in whole or in part.
- 898 (6) A creditor who files a motion for an order to show cause under this section shall
- 899 attach to the motion a statement that the creditor has in good faith conferred or attempted to
- 900 confer with the garnishee in an effort to settle the issue without court action.
- 901 (7) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a
- 902 negotiable instrument if the instrument is not in the possession or control of the garnishee at
- 903 the time of service of the administrative garnishment order.
- 904 (8)(a) A person indebted to the defendant may pay to the office the amount of the debt
- 905 or an amount to satisfy the administrative garnishment.
- 906 (b) The office's receipt of an amount described in Subsection (8)(a) discharges the
- 907 debtor for the amount paid.
- 908 (9) A garnishee may deduct from the property any liquidated claim against the
- 909 defendant.
- 910 (10)(a) If a debt to the garnishee is secured by property, the office:
- 911 (i) is not required to apply the property to the debt when the office issues the
- 912 administrative garnishment order; and
- 913 (ii) may obtain a court order authorizing the office to buy the debt and requiring the
- 914 garnishee to deliver the property.
- 915 (b) Notwithstanding Subsection (10)(a)(i):
- 916 (i) the administrative garnishment order remains in effect; and
- 917 (ii) the office may apply the property to the debt.
- 918 (c) The office or a third party may perform an obligation of the defendant and require
- 919 the garnishee to deliver the property upon completion of performance or, if performance is
- 920 refused, upon tender of performance if:
- 921 (i) the obligation is secured by property; and
- 922 (ii)(A) the obligation does not require the personal performance of the defendant; and
- 923 (B) a third party may perform the obligation.
- 924 (11)(a) The office may issue a continuing garnishment order against a nonexempt

925 periodic payment.

926 (b) This section is subject to the Utah Exemptions Act.

927 (c) A continuing garnishment order issued in accordance with this section applies to  
928 payments to the defendant from the date of service upon the garnishee until the earlier of the  
929 following:

930 (i) the last periodic payment;

931 (ii) the judgment upon which the administrative garnishment order is issued is stayed,  
932 vacated, or satisfied in full; or

933 (iii) the office releases the order.

934 (d) No later than seven days after the last day of each payment period, the garnishee  
935 shall with respect to that period:

936 (i) answer each interrogatory;

937 (ii) serve an answer to each interrogatory on the office, the defendant, and any other  
938 person who has a recorded interest in the property; and

939 (iii) deliver the property to the office.

940 (e) If the office issues a continuing garnishment order during the term of a writ of  
941 continuing garnishment issued by the district court, the order issued by the office:

942 (i) is tolled when a writ of garnishment or other income withholding is already in effect  
943 and is withholding greater than or equal to the maximum portion of disposable earnings  
944 described in Subsection (12);

945 (ii) is collected in the amount of the difference between the maximum portion of  
946 disposable earnings described in Subsection (12) and the amount being garnished by an  
947 existing writ of continuing garnishment if the maximum portion of disposable earnings exceed  
948 the existing writ of garnishment or other income withholding; and

949 (iii) shall take priority upon the termination of the current term of existing writs.

950 (12) The maximum portion of disposable earnings of an individual subject to seizure in  
951 accordance with this section is the lesser of:

952 (a) 25% of the defendant's disposable earnings for any other judgment; or

953 (b) the amount by which the defendant's disposable earnings for a pay period exceeds  
954 the number of weeks in that pay period multiplied by 30 times the federal minimum wage as  
955 provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

956 (13) The administrative garnishment instituted in accordance with this section shall  
957 continue to operate and require that a person withhold the nonexempt portion of earnings at  
958 each succeeding earning disbursement interval until the total amount due in the garnishment is  
959 withheld or the garnishment is released in writing by the court or office.

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

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

966 **63I-1-263. Repeal dates, Titles 63A to 63N.**

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

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

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

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

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

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

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

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

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

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

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

986 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,

987 2024.

988 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is  
989 repealed July 1, 2021.

990 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed  
991 July 1, 2023.

992 (10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

993 (11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1,  
994 2025.

995 (12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities  
996 Advisory Board, is repealed July 1, 2026.

997 (13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,  
998 2025.

999 (14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,  
1000 2024.

1001 (15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

1002 (16) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed  
1003 July 1, 2026.

1004 (17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System  
1005 Restricted Account, is repealed July 1, 2022.

1006 (b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and  
1007 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make  
1008 necessary changes to subsection numbering and cross references.

1009 (18) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage  
1010 Commission, is repealed July 1, 2023.

1011 (19) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed  
1012 July 1, 2022.

1013 (20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is  
1014 repealed January 1, 2025.

1015 (21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is  
1016 repealed July 1, 2027.

1017 (22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory

1018 Committee, is repealed on July 1, 2021.

1019 (23) In relation to the Utah Substance Use and Mental Health Advisory Council, on  
1020 January 1, 2023:

1021 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are  
1022 repealed;

1023 (b) Section [63M-7-305](#), the language that states "council" is replaced with  
1024 "commission";

1025 (c) Subsection [63M-7-305](#)(1) is repealed and replaced with:

1026 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

1027 (d) Subsection [63M-7-305](#)(2) is repealed and replaced with:

1028 "(2) The commission shall:

1029 (a) provide ongoing oversight of the implementation, functions, and evaluation of the  
1030 Drug-Related Offenses Reform Act; and

1031 (b) coordinate the implementation of Section [~~77-18-1.1~~] [77-18-104](#) and related  
1032 provisions in Subsections [~~77-18-1(5)(b)(iii) and (iv)~~] [77-18-103](#)(2)(c) and (d)."

1033 (24) The Crime Victim Reparations and Assistance Board, created in Section  
1034 [63M-7-504](#), is repealed July 1, 2027.

1035 (25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July  
1036 1, 2022.

1037 (26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

1038 (27) Subsection [63N-1-301](#)(4)(c), related to the Talent Ready Utah Board, is repealed  
1039 January 1, 2023.

1040 (28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating  
1041 Council, is repealed July 1, 2024.

1042 (29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

1043 (30) Section [63N-2-512](#) is repealed July 1, 2021.

1044 (31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed  
1045 January 1, 2021.

1046 (b) Section [59-9-107](#) regarding tax credits against premium taxes is repealed for  
1047 calendar years beginning on or after January 1, 2021.

1048 (c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in

1049 accordance with Section [59-9-107](#) if:

1050 (i) the person is entitled to a tax credit under Section [59-9-107](#) on or before December  
1051 31, 2020; and

1052 (ii) the qualified equity investment that is the basis of the tax credit is certified under  
1053 Section [63N-2-603](#) on or before December 31, 2023.

1054 (32) Subsections [63N-3-109\(2\)\(e\)](#) and [63N-3-109\(2\)\(f\)\(i\)](#) are repealed July 1, 2023.

1055 (33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed  
1056 July 1, 2023.

1057 (34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1,  
1058 2025.

1059 (35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program,  
1060 is repealed January 1, 2023.

1061 (36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1,  
1062 2023.

1063 Section 14. Section **63M-7-303** is amended to read:

1064 **63M-7-303. Duties of council.**

1065 (1) The Utah Substance Use and Mental Health Advisory Council shall:

1066 (a) provide leadership and generate unity for Utah's ongoing efforts to reduce and  
1067 eliminate the impact of substance use and mental health disorders in Utah through a  
1068 comprehensive and evidence-based prevention, treatment, and justice strategy;

1069 (b) recommend and coordinate the creation, dissemination, and implementation of  
1070 statewide policies to address substance use and mental health disorders;

1071 (c) facilitate planning for a balanced continuum of substance use and mental health  
1072 disorder prevention, treatment, and justice services;

1073 (d) promote collaboration and mutually beneficial public and private partnerships;

1074 (e) coordinate recommendations made by any committee created under Section  
1075 [63M-7-302](#);

1076 (f) analyze and provide an objective assessment of all proposed legislation concerning  
1077 substance use, mental health, and related issues;

1078 (g) coordinate the implementation of Section [~~77-18-1.1~~] [77-18-104](#) and related  
1079 provisions in Subsections [~~77-18-1(5)(b)(iii) and (iv)~~] [77-18-103\(2\)\(c\)](#) and (d), as provided in

1080 Section [63M-7-305](#);

1081 (h) comply with Section [32B-2-306](#); and

1082 (i) oversee coordination for the funding, implementation, and evaluation of suicide  
1083 prevention efforts described in Section [62A-15-1101](#).

1084 (2) The council shall meet quarterly or more frequently as determined necessary by the  
1085 chair.

1086 (3) The council shall report [~~its~~] the council's recommendations annually to the  
1087 commission, governor, the Legislature, and the Judicial Council.

1088 Section 15. Section **63M-7-305** is amended to read:

1089 **63M-7-305. Drug-Related Offenses Reform Act -- Coordination.**

1090 (1) As used in this section:

1091 (a) "Council" means the Utah Substance Use and Mental Health Advisory Council.

1092 (b) "Drug-Related Offenses Reform Act" and "act" mean the screening, assessment,  
1093 substance use disorder treatment, and supervision provided to convicted persons under  
1094 Subsection [~~77-18-1.1(2)~~] [77-18-104\(2\)](#) to:

1095 (i) determine a person's specific substance use disorder treatment needs as early as  
1096 possible in the judicial process;

1097 (ii) expand treatment resources for persons in the community;

1098 (iii) integrate a person's treatment with supervision by the Department of Corrections;  
1099 and

1100 (iv) reduce the incidence of substance use disorders and related criminal conduct.

1101 (c) "Substance abuse authority" [~~has the same meaning as~~] means the same as that term  
1102 is defined in Section [17-43-201](#).

1103 (2) The council shall provide ongoing oversight of the implementation, functions, and  
1104 evaluation of the Drug-Related Offenses Reform Act.

1105 (3) The council shall develop an implementation plan for the Drug-Related Offenses  
1106 Reform Act. The plan shall:

1107 (a) identify local substance abuse authority areas where the act will be implemented, in  
1108 cooperation with the Division of Substance Abuse and Mental Health, the Department of  
1109 Corrections, and the local substance abuse authorities;

1110 (b) include guidelines for local substance abuse authorities and the Utah Department of

1111 Corrections on how funds appropriated under the act should be used, including eligibility  
1112 requirements for convicted persons who participate in services funded by the act, that are  
1113 consistent with the recommendations of the Commission on Criminal and Juvenile Justice for  
1114 reducing recidivism; and

1115 (c) require that treatment plans under the act are appropriate for persons involved in the  
1116 criminal justice system.

1117 Section 16. Section **63M-7-502** is amended to read:

1118 **63M-7-502. Definitions.**

1119 As used in this part:

1120 (1) "Accomplice" means an individual who has engaged in criminal conduct as  
1121 described in Section [76-2-202](#).

1122 (2) "Board" means the Crime Victim Reparations and Assistance Board created under  
1123 Section [63M-7-504](#).

1124 (3) "Bodily injury" means physical pain, illness, or any impairment of physical  
1125 condition.

1126 (4) "Claimant" means any of the following claiming reparations under this part:

1127 (a) a victim;

1128 (b) a dependent of a deceased victim; or

1129 (c) an individual or representative who files a reparations claim on behalf of a victim.

1130 (5) "Child" means an unemancipated individual who is under 18 years old.

1131 (6) "Collateral source" means any source of benefits or advantages for economic loss  
1132 otherwise reparable under this part [~~which~~] that the victim or claimant has received, or [~~which~~]  
1133 that is readily available to the victim from:

1134 (a) the offender;

1135 (b) the insurance of the offender or the victim;

1136 (c) the United States government or any of its agencies, a state or any of its political  
1137 subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory  
1138 state-funded programs;

1139 (d) social security, Medicare, and Medicaid;

1140 (e) state-required temporary nonoccupational income replacement insurance or  
1141 disability income insurance;

- 1142 (f) workers' compensation;
- 1143 (g) wage continuation programs of any employer;
- 1144 (h) proceeds of a contract of insurance payable to the victim for the loss the victim
- 1145 sustained because of the criminally injurious conduct;
- 1146 (i) a contract providing prepaid hospital and other health care services or benefits for
- 1147 disability; or
- 1148 (j) veteran's benefits, including veteran's hospitalization benefits.
- 1149 (7) (a) "Criminally injurious conduct" other than acts of war declared or not declared
- 1150 means conduct that:
  - 1151 (i) is or would be subject to prosecution in this state under Section 76-1-201;
  - 1152 (ii) occurs or is attempted;
  - 1153 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
  - 1154 (iv) is punishable by fine, imprisonment, or death if the individual engaging in the
  - 1155 conduct possessed the capacity to commit the conduct; and
  - 1156 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,
  - 1157 aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is
  - 1158 conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the
  - 1159 Person, or as any offense chargeable as driving under the influence of alcohol or drugs.
- 1160 (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C.
- 1161 Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism"
- 1162 does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.
- 1163 (c) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and
- 1164 other conduct leading to the psychological injury of an individual resulting from living in a
- 1165 setting that involves a bigamous relationship.
- 1166 (8) (a) "Dependent" means a natural person to whom the victim is wholly or partially
- 1167 legally responsible for care or support [~~and includes~~].
- 1168 (b) "Dependent" includes a child of the victim born after the victim's death.
- 1169 (9) "Dependent's economic loss" means loss after the victim's death of contributions of
- 1170 things of economic value to the victim's dependent, not including services the dependent would
- 1171 have received from the victim if the victim had not suffered the fatal injury, less expenses of
- 1172 the dependent avoided by reason of victim's death.

1173 (10) "Dependent's replacement services loss" means loss reasonably and necessarily  
1174 incurred by the dependent after the victim's death in obtaining services in lieu of those the  
1175 decedent would have performed for the victim's benefit if the victim had not suffered the fatal  
1176 injury, less expenses of the dependent avoided by reason of the victim's death and not  
1177 subtracted in calculating the dependent's economic loss.

1178 (11) "Director" means the director of the office.

1179 (12) "Disposition" means the sentencing or determination of penalty or punishment to  
1180 be imposed upon an individual:

1181 (a) convicted of a crime;

1182 (b) found delinquent; or

1183 (c) against whom a finding of sufficient facts for conviction or finding of delinquency  
1184 is made.

1185 (13) (a) "Economic loss" means economic detriment consisting only of allowable  
1186 expense, work loss, replacement services loss, and if injury causes death, dependent's economic  
1187 loss and dependent's replacement service loss.

1188 (b) "Economic loss" includes economic detriment even if caused by pain and suffering  
1189 or physical impairment.

1190 (c) "Economic loss" does not include noneconomic detriment.

1191 (14) "Elderly victim" means an individual 60 years old or older who is a victim.

1192 (15) "Fraudulent claim" means a filed reparations based on material misrepresentation  
1193 of fact and intended to deceive the reparations staff for the purpose of obtaining reparation  
1194 funds for which the claimant is not eligible.

1195 (16) "Fund" means the Crime Victim Reparations Fund created in Section [63M-7-526](#).

1196 (17) "Law enforcement officer" means [~~a law enforcement officer as defined in Section~~  
1197 [53-13-103](#)] the same as that term is defined in Section [53-13-103](#).

1198 (18) (a) "Medical examination" means a physical examination necessary to document  
1199 criminally injurious conduct [~~but~~].

1200 (b) "Medical examination" does not include mental health evaluations for the  
1201 prosecution and investigation of a crime.

1202 (19) "Mental health counseling" means outpatient and inpatient counseling necessitated  
1203 as a result of criminally injurious conduct, is subject to rules made by the board in accordance

1204 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1205 (20) "Misconduct" [~~as provided in Subsection 63M-7-512(1)(b)~~] means conduct by the  
1206 victim [~~which~~] that was attributable to the injury or death of the victim as provided by rules  
1207 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
1208 Act.

1209 (21) "Noneconomic detriment" means pain, suffering, inconvenience, physical  
1210 impairment, and other nonpecuniary damage, except as provided in this part.

1211 (22) "Pecuniary loss" does not include loss attributable to pain and suffering except as  
1212 otherwise provided in this part.

1213 (23) "Offender" means an individual who has violated [~~the~~] Title 76, Utah Criminal  
1214 Code, through criminally injurious conduct regardless of whether the individual is arrested,  
1215 prosecuted, or convicted.

1216 (24) "Offense" means a violation of [~~the~~] Title 76, Utah Criminal Code.

1217 (25) "Office" means the director, the reparations and assistance officers, and any other  
1218 staff employed for the purpose of carrying out the provisions of this part.

1219 (26) "Perpetrator" means the individual who actually participated in the criminally  
1220 injurious conduct.

1221 (27) "Reparations award" means money or other benefits provided to a claimant or to  
1222 another on behalf of a claimant after the day on which a reparations claim is approved by the  
1223 office.

1224 (28) "Reparations claim" means a claimant's request or application made to the office  
1225 for a reparations award.

1226 (29) (a) "Reparations officer" means an individual employed by the office to  
1227 investigate claims of victims and award reparations under this part[~~and includes~~].

1228 (b) "Reparations officer" includes the director when the director is acting as a  
1229 reparations officer.

1230 (30) "Replacement service loss" means expenses reasonably and necessarily incurred in  
1231 obtaining ordinary and necessary services in lieu of those the injured individual would have  
1232 performed, not for income but the benefit of the injured individual or the injured individual's  
1233 dependents if the injured individual had not been injured.

1234 (31) (a) "Representative" means the victim, immediate family member, legal guardian,

1235 attorney, conservator, executor, or an heir of an individual [~~but~~].

1236 (b) "Representative" does not include a service provider or collateral source.

1237 (32) "Restitution" means [~~money or services an appropriate authority orders an~~

1238 ~~offender to pay or render to a victim of the offender's conduct.~~] the same as that term is defined

1239 in Section 77-38b-102.

1240 (33) "Secondary victim" means an individual who is traumatically affected by the  
1241 criminally injurious conduct subject to rules made by the board in accordance with Title 63G,  
1242 Chapter 3, Utah Administrative Rulemaking Act.

1243 (34) "Service provider" means an individual or agency who provides a service to  
1244 [~~crime victims~~] a victim for a monetary fee, except attorneys as provided in Section  
1245 63M-7-524.

1246 (35) "Serious bodily injury" means the same as that term is defined in Section  
1247 76-1-601.

1248 (36) "Substantial bodily injury" means the same as that term is defined in Section  
1249 76-1-601.

1250 (37) (a) "Victim" means an individual who suffers bodily or psychological injury or  
1251 death as a direct result of:

1252 (i) criminally injurious conduct; or [of]

1253 (ii) the production of pornography in violation of Section 76-5b-201 if the individual is  
1254 a minor.

1255 (b) "Victim" does not include an individual who participated in or observed the judicial  
1256 proceedings against an offender unless otherwise provided by statute or rule made in  
1257 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1258 (c) "Victim" includes a resident of this state who is injured or killed by an act of  
1259 terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

1260 (38) "Work loss" means loss of income from work the injured victim would have  
1261 performed if the injured victim had not been injured and expenses reasonably incurred by the  
1262 injured victim in obtaining services in lieu of those the injured victim would have performed  
1263 for income, reduced by any income from substitute work the injured victim was capable of  
1264 performing but unreasonably failed to undertake.

1265 Section 17. Section **63M-7-503** is amended to read:

1266           **63M-7-503. Restitution -- Reparations not to supplant restitution -- Assignment**  
1267 **of claim for restitution judgment to Reparations Office.**

1268           (1) A reparations award may not supplant [~~restitution as established under Title 77,~~  
1269 ~~Chapter 38a, Crime Victims Restitution Act, or as established by any other provisions.~~] an  
1270 order for restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, or under any  
1271 other provision of law.

1272           (2) The court may not reduce an order [~~of~~] for restitution based on a reparations award.

1273           (3) (a) (i) [~~If, due to reparation payments to a victim, the office is assigned under~~  
1274 ~~Section 63M-7-519 a claim for the victim's judgment for restitution or a portion of the~~  
1275 ~~restitution]~~ If a victim receives a reparations award and the office is assigned the victim's claim  
1276 for restitution, or a portion of the victim's claim for restitution, under Section 63M-7-519, the  
1277 office may file with the sentencing court a notice of restitution listing the amounts or estimated  
1278 future amounts of payments made or anticipated to be made to or on behalf of the victim.

1279           (ii) The office may provide a [~~restitution notice~~] notice of restitution to the victim or  
1280 victim's representative before or at sentencing.

1281           (iii) The office's failure to provide notice under Subsection (3)(a)(i) or (ii) does not  
1282 invalidate the imposition of the judgment or [~~order of~~] an order for restitution if the defendant  
1283 is given the opportunity to object and be heard as provided in this part.

1284           (b) (i) Any objection by the defendant to the imposition or amount of restitution under  
1285 Subsection (3)(a)(i) shall be:

1286           (A) made at the time of sentencing; or

1287           (B) made in writing within 20 days after the day on which the defendant receives the  
1288 notice described in Subsection (3)(a)[, to be] and filed with the court and a copy mailed to the  
1289 office.

1290           (ii) Upon [~~the filing of the~~] an objection, the court shall allow the defendant a [~~full~~]  
1291 hearing on the issue [in accordance with Subsection 77-38a-302(4)].

1292           (iii) After a hearing under Subsection (3)(b)(ii), the court shall:

1293           (A) enter an order for restitution in accordance with Section 77-38b-205; and

1294           (B) identify the office as an assignee for the order for restitution.

1295           [~~(iii) The~~] (iv) Subject to the right of the defendant to object, the amount of restitution  
1296 sought by the office may be updated [at any time, subject to the right of the defendant to

1297 ~~object.] and the office identified as an assignee of an order for restitution in accordance with~~  
1298 ~~the time periods established under Subsection 77-38b-205(5).~~

1299 (4) If no objection is made or filed by the defendant under Subsection (3), ~~[then upon~~  
1300 ~~conviction and sentencing, the court shall enter a judgment for complete restitution under~~  
1301 ~~Subsections 76-3-201(4)(c) and (d) and identify the office as the assignee of the assigned~~  
1302 ~~portion of the judgment and order of restitution.] the court shall, upon conviction and~~  
1303 ~~sentencing:~~

1304 (a) enter an order for restitution in accordance with Section 77-38b-205; and

1305 (b) identify the office as an assignee for the order for restitution.

1306 (5) (a) If the notice of restitution is filed after sentencing but during the term of  
1307 probation or parole, the court ~~[or Board of Pardons]~~ shall:

1308 (i) modify any ~~[existing civil judgment and order of]~~ order for restitution to include  
1309 expenses paid by the office on behalf of the victim in accordance with Subsection  
1310 77-38b-205(5); and

1311 (ii) identify the office as ~~[the]~~ an assignee of the ~~[assigned portion of the judgment and~~  
1312 ~~order of]~~ order for restitution. ~~[If no judgment or order of restitution has]~~

1313 (b) If an order for restitution has not been entered, the court shall enter ~~[a judgment for~~  
1314 ~~complete restitution and court-ordered restitution under Sections 77-38a-302 and 77-38a-401.];~~

1315 (i) an order for restitution in accordance with Section 77-38b-205; and

1316 (ii) identify the office as an assignee of the order for restitution.

1317 Section 18. Section **63M-7-513** is amended to read:

1318 **63M-7-513. Collateral sources.**

1319 (1) (a) An order ~~[of]~~ for restitution may not be considered readily available as a  
1320 collateral source.

1321 (b) Receipt of a reparations award under this part is considered an assignment of the  
1322 victim's rights to restitution from the offender.

1323 (2) (a) The victim may not discharge a claim against an individual or entity without the  
1324 office's written permission ~~[and]~~.

1325 (b) The victim shall fully cooperate with the office in pursuing the office's right of  
1326 reimbursement, including providing the office with any evidence in the victim's possession.

1327 (3) The office's right of reimbursement applies regardless of whether the victim is fully

1328 compensated for the victim's losses.

1329 (4) Notwithstanding Subsection 63M-7-512(1)(a), a victim of a sexual offense who  
1330 requests testing of the victim's self may be reimbursed for the costs of the HIV test only as  
1331 provided in Subsection 76-5-503(4).

1332 Section 19. Section 64-13-1 is amended to read:

1333 **64-13-1. Definitions.**

1334 As used in this chapter:

1335 (1) "Case action plan" means a document developed by the Department of Corrections  
1336 that identifies the program priorities for the treatment of the offender, including the criminal  
1337 risk factors as determined by a risk and needs assessment conducted by the department.

1338 (2) "Community correctional center" means a nonsecure correctional facility operated  
1339 by the department.

1340 (3) "Correctional facility" means any facility operated to house offenders[~~either~~] in a  
1341 secure or nonsecure setting:

1342 (a) by the department; or

1343 (b) under a contract with the department.

1344 (4) "Criminal risk factors" means [~~a person's~~] an individual's characteristics and  
1345 behaviors that:

1346 (a) affect [~~that person's~~] the individual's risk of engaging in criminal behavior; and

1347 (b) are diminished when addressed by effective treatment, supervision, and other  
1348 support resources, resulting in a reduced risk of criminal behavior.

1349 (5) "Department" means the Department of Corrections.

1350 (6) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in  
1351 any correctional facility, or any situation that presents immediate danger to the safety, security,  
1352 and control of the department.

1353 (7) "Executive director" means the executive director of the Department of  
1354 Corrections.

1355 (8) "Inmate" means [~~any person~~] an individual who is:

1356 (a) committed to the custody of the department [~~and who is~~]; and

1357 (b) housed at a correctional facility or at a county jail at the request of the department.

1358 (9) "Offender" means [~~any person~~] an individual who has been convicted of a crime for

1359 which ~~[he]~~ the individual may be committed to the custody of the department and is at least one  
1360 of the following:

1361 (a) committed to the custody of the department;

1362 (b) on probation; or

1363 (c) on parole.

1364 (10) "Restitution" means the same as that term is defined in Section 77-38b-102.

1365 ~~[(+)]~~ (11) "Risk and needs assessment" means an actuarial tool validated on criminal  
1366 offenders that determines:

1367 (a) an individual's risk of reoffending; and

1368 (b) the criminal risk factors that, when addressed, reduce the individual's risk of  
1369 reoffending.

1370 ~~[(+)]~~ (12) "Secure correctional facility" means any prison, penitentiary, or other  
1371 institution operated by the department or under contract for the confinement of offenders,  
1372 where force may be used to restrain ~~them if they attempt~~ an offender if the offender attempts  
1373 to leave the institution without authorization.

1374 Section 20. Section **64-13-6** is amended to read:

1375 **64-13-6. Department duties.**

1376 (1) The department shall:

1377 (a) protect the public through institutional care and confinement, and supervision in the  
1378 community of offenders where appropriate;

1379 (b) implement court-ordered punishment of offenders;

1380 (c) provide program opportunities for offenders;

1381 (d) provide treatment for sex offenders who are found to be treatable based upon  
1382 criteria developed by the department;

1383 (e) provide the results of ongoing assessment of sex offenders and objective diagnostic  
1384 testing to sentencing and release authorities;

1385 (f) manage programs that take into account the needs and interests of victims, where  
1386 reasonable;

1387 (g) supervise probationers and parolees as directed by statute and implemented by the  
1388 courts and the Board of Pardons and Parole;

1389 (h) subject to Subsection (2), investigate criminal conduct involving offenders

1390 incarcerated in a state correctional facility;

1391 (i) cooperate and exchange information with other state, local, and federal law  
1392 enforcement agencies to achieve greater success in prevention and detection of crime and  
1393 apprehension of criminals;

1394 (j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult  
1395 Offender Supervision;

1396 (k) establish a case action plan for each offender as follows:

1397 (i) if an offender is to be supervised in the community, the case action plan shall be  
1398 established for the offender not more than 90 days after supervision by the department begins;  
1399 and

1400 (ii) if the offender is committed to the custody of the department, the case action plan  
1401 shall be established for the offender not more than 120 days after the commitment; and

1402 (l) ensure that any training or certification required of a public official or public  
1403 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter  
1404 22, State Training and Certification Requirements, if the training or certification is required:

1405 (i) under this title;

1406 (ii) by the department; or

1407 (iii) by an agency or division within the department.

1408 (2) The department may in the course of supervising probationers and parolees:

1409 (a) impose graduated sanctions, as established by the Utah Sentencing Commission  
1410 under Subsection 63M-7-404(6), for an individual's violation of one or more terms of the  
1411 probation or parole; and

1412 (b) upon approval by the court or the Board of Pardons and Parole, impose as a  
1413 sanction for an individual's violation of the terms of probation or parole a period of  
1414 incarceration of not more than three consecutive days and not more than a total of five days  
1415 within a period of 30 days.

1416 (3) (a) By following the procedures in Subsection (3)(b), the department may  
1417 investigate the following occurrences at state correctional facilities:

1418 (i) criminal conduct of departmental employees;

1419 (ii) felony crimes resulting in serious bodily injury;

1420 (iii) death of any person; or

1421 (iv) aggravated kidnaping.

1422 (b) ~~[Prior to]~~ Before investigating any occurrence specified in Subsection (3)(a), the  
1423 department shall:

1424 (i) notify the sheriff or other appropriate law enforcement agency promptly after  
1425 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has  
1426 occurred; and

1427 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to  
1428 conduct an investigation involving an occurrence specified in Subsection (3)(a).

1429 (4) Upon request, the department shall provide copies of investigative reports of  
1430 criminal conduct to the sheriff or other appropriate law enforcement agencies.

1431 ~~[(5) The Department of Corrections shall collect accounts receivable ordered by the  
1432 district court as a result of prosecution for a criminal offense according to the requirements and  
1433 during the time periods established in Subsection 77-18-1(9).]~~

1434 (5) (a) As used in this Subsection (5):

1435 (i) "Accounts receivable" means any amount owed by an offender arising from a  
1436 criminal judgment that has not been paid.

1437 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,  
1438 surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims,  
1439 reimbursement of a reward, and damages that an offender is ordered to pay.

1440 (b) The department shall collect and disburse, with any interest and any other costs  
1441 assessed under Section 64-13-21, an accounts receivable for an offender during:

1442 (i) the parole period and any extension of that period in accordance with Subsection  
1443 (5)(c); and

1444 (ii) the probation period for which the court orders supervised probation and any  
1445 extension of that period by the department in accordance with Subsection 77-18-105(7).

1446 (c) (i) If an offender has unpaid balance of the offender's accounts receivable at the  
1447 time that the offender's sentence expires or terminates, the department shall be referred to the  
1448 sentencing court for the sentencing court to enter a civil judgment of restitution and a civil  
1449 accounts receivable as described in Section 77-18-114.

1450 (ii) If the board makes an order for restitution within 60 days from the day on which  
1451 the offender's sentence expires or terminates, the board shall refer the order for restitution to

1452 the sentencing court to be entered as a civil judgment of restitution as described in Section  
1453 77-18-114.

1454 (d) This Subsection (5) only applies to offenders sentenced before May 5, 2021.

1455 Section 21. Section **64-13-21** is amended to read:

1456 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**  
1457 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**  
1458 **fee.**

1459 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced  
1460 offenders placed in the community on probation by the courts, on parole by the Board of  
1461 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate  
1462 Compact for the Supervision of Parolees and Probationers.

1463 (b) The department shall establish standards for the supervision of offenders in  
1464 accordance with sentencing guidelines and supervision length guidelines, including the  
1465 graduated sanctions matrix, established by the Utah Sentencing Commission, giving priority,  
1466 based on available resources, to felony offenders and offenders sentenced pursuant to  
1467 Subsection [58-37-8\(2\)\(b\)\(ii\)](#).

1468 (2) The department shall apply graduated sanctions established by the Utah Sentencing  
1469 Commission to facilitate a prompt and appropriate response to an individual's violation of the  
1470 terms of probation or parole, including:

1471 (a) sanctions to be used in response to a violation of the terms of probation or parole;  
1472 and

1473 (b) requesting approval from the court or Board of Pardons and Parole to impose a  
1474 sanction for an individual's violation of the terms of probation or parole, for a period of  
1475 incarceration of not more than three consecutive days and not more than a total of five days  
1476 within a period of 30 days.

1477 (3) The department shall implement a program of graduated incentives as established  
1478 by the Utah Sentencing Commission to facilitate the department's prompt and appropriate  
1479 response to an offender's:

1480 (a) compliance with the terms of probation or parole; or

1481 (b) positive conduct that exceeds those terms.

1482 (4) (a) The department shall, in collaboration with the Commission on Criminal and

1483 Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and  
1484 procedures for the collection of information, including cost savings related to recidivism  
1485 reduction and the reduction in the number of inmates, related to the use of the graduated  
1486 sanctions and incentives, and offenders' outcomes.

1487 (b) The collected information shall be provided to the Commission on Criminal and  
1488 Juvenile Justice not less frequently than annually on or before August 31.

1489 (5) Employees of the department who are POST certified as law enforcement officers  
1490 or correctional officers and who are designated as parole and probation officers by the  
1491 executive director have the following duties:

1492 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance  
1493 with the conditions of the parole or probation agreement;

1494 (b) investigating or apprehending any offender who has escaped from the custody of  
1495 the department or absconded from supervision;

1496 (c) supervising any offender during transportation; or

1497 (d) collecting DNA specimens when the specimens are required under Section  
1498 [53-10-404](#).

1499 (6) (a) A monthly supervision fee of \$30 shall be collected from each offender on  
1500 probation or parole. The fee may be suspended or waived by the department upon a showing  
1501 by the offender that imposition would create a substantial hardship or if the offender owes  
1502 restitution to a victim.

1503 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah  
1504 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the  
1505 supervision fee and the circumstances under which an offender may request a hearing.

1506 (ii) In determining whether the imposition of the supervision fee would constitute a  
1507 substantial hardship, the department shall consider the financial resources of the offender and  
1508 the burden that the fee would impose, with regard to the offender's other obligations.

1509 (7) (a) For offenders placed on probation under Section [~~77-18-1~~] [77-18-105](#) or parole  
1510 under Subsection [76-3-202\(2\)\(a\)](#) on or after October 1, 2015, but before January 1, 2019, the  
1511 department shall establish a program allowing an offender to earn credits for the offender's  
1512 compliance with the terms of the offender's probation or parole, which shall be applied to  
1513 reducing the period of probation or parole as provided in this Subsection (7).

1514 (b) The program shall provide that an offender earns a reduction credit of 30 days from  
1515 the offender's period of probation or parole for each month the offender completes without any  
1516 violation of the terms of the offender's probation or parole agreement, including the case action  
1517 plan.

1518 (c) The department shall maintain a record of credits earned by an offender under this  
1519 Subsection (7) and shall request from the court or the Board of Pardons and Parole the  
1520 termination of probation or parole not fewer than 30 days prior to the termination date that  
1521 reflects the credits earned under this Subsection (7).

1522 (d) This Subsection (7) does not prohibit the department from requesting a termination  
1523 date earlier than the termination date established by earned credits under Subsection (7)(c).

1524 (e) The court or the Board of Pardons and Parole shall terminate an offender's  
1525 probation or parole upon completion of the period of probation or parole accrued by time  
1526 served and credits earned under this Subsection (7) unless the court or the Board of Pardons  
1527 and Parole finds that termination would interrupt the completion of a necessary treatment  
1528 program, in which case the termination of probation or parole shall occur when the treatment  
1529 program is completed.

1530 (f) The department shall report annually to the Commission on Criminal and Juvenile  
1531 Justice on or before August 31:

1532 (i) the number of offenders who have earned probation or parole credits under this  
1533 Subsection (7) in one or more months of the preceding fiscal year and the percentage of the  
1534 offenders on probation or parole during that time that this number represents;

1535 (ii) the average number of credits earned by those offenders who earned credits;

1536 (iii) the number of offenders who earned credits by county of residence while on  
1537 probation or parole;

1538 (iv) the cost savings associated with sentencing reform programs and practices; and

1539 (v) a description of how the savings will be invested in treatment and  
1540 early-intervention programs and practices at the county and state levels.

1541 Section 22. Section **64-13-23** is amended to read:

1542 **64-13-23. Offender's income and finances.**

1543 (1) The department may require each offender, while in the custody of the department  
1544 or while on probation or parole, to place funds received or earned by ~~him~~ the offender from

1545 any source into:

1546 (a) an account administered by the department; or ~~[into]~~

1547 (b) a joint account with the department at a federally insured financial institution.

1548 ~~[(1)]~~ (2) The department may require each offender to maintain a minimum balance in

1549 ~~[either or both accounts]~~ an account under Subsection (1) for the particular offender's use upon:

1550 (a) discharge from the custody of the department; or ~~[upon]~~

1551 (b) completion of parole or probation.

1552 ~~[(2)]~~ (3) If the funds are placed in a joint account at a federally insured financial

1553 institution:

1554 (a) any interest accrues to the benefit of the offender account; and

1555 (b) the department may require that the signatures of both the offender and a  
1556 departmental representative be submitted to the financial institution to withdraw funds from the  
1557 account.

1558 ~~[(3)]~~ (4) If the funds are placed in an account administered by the department, the  
1559 department may by rule designate:

1560 (a) a certain portion of the offender's funds as interest-bearing savings~~;~~; and ~~[another]~~

1561 (b) a portion of the offender's funds as noninterest-bearing to be used for day-to-day  
1562 expenses.

1563 ~~[(4)]~~ (5) The department may withhold part of the offender's funds in ~~[either account]~~  
1564 an account under Subsection (1) for expenses of:

1565 (a) ~~[incarceration, supervision,]~~ supervision or treatment;

1566 (b) ~~[court-ordered]~~ restitution, reparation, fines, alimony, support payments, or similar  
1567 court-ordered payments;

1568 (c) obtaining the offender's DNA specimen, if the offender is required under Section  
1569 [53-10-404](#) to provide a specimen;

1570 (d) department-ordered ~~[restitution]~~ repayment of a fine that is incurred under Section  
1571 [64-13-33](#); and

1572 (e) any other debt to the state.

1573 ~~[(5)]~~ (6) (a) ~~[Offenders]~~ An offender may not be granted free process in civil actions,  
1574 including petitions for a writ of habeas corpus, if, at any time from the date the cause of action  
1575 arose through the date the cause of action remains pending, there are any funds in ~~[either~~

1576 ~~account which]~~ an account under Subsection (1) that have not been withheld or are not subject  
1577 to withholding under Subsection [(3) or (4)] (4) or (5).

1578 (b) The amount assessed for the filing fee, service of process and other fees and costs  
1579 shall not exceed the total amount of funds the offender has in excess of the indigence threshold  
1580 established by the department but not less than \$25 including the withholdings under  
1581 Subsection [(3) or (4)] (4) or (5) during the identified period of time.

1582 (c) The amounts assessed shall not exceed the regular fees and costs provided by law.  
1583 [(6)] (7) The department may disclose information on offender accounts to the Office  
1584 of Recovery Services and other appropriate state agencies.

1585 Section 23. Section **64-13-33** is amended to read:

1586 **64-13-33. Fines for violation of department rules -- Debt collection.**

1587 (1) (a) Following an administrative hearing, the department is authorized to:

1588 (i) assess a reasonable fine against the offender for expenses incurred by the  
1589 department as a result of the offender's violation of department rules; and

1590 (ii) require [restitution] repayment from [an offender for expenses incurred by the  
1591 department as a result of the offender's violation of department rules.] the offender for the fine  
1592 under Subsection (1)(a)(i).

1593 (b) The department is authorized to require payment from the offender's account or to  
1594 place a hold on [it] the offender's account to secure compliance with this section.

1595 (2) The department shall turn over to the Office of State Debt Collection any debt  
1596 under this section that is unpaid at the time that the offender is released from parole.

1597 Section 24. Section **64-13e-102** is amended to read:

1598 **64-13e-102. Definitions.**

1599 As used in this chapter:

1600 (1) "Actual county daily incarceration rate" means the median amount of jail daily  
1601 incarceration costs based on the data submitted by counties in accordance with Section  
1602 [64-13e-104\(6\)\(b\)](#).

1603 (2) "Actual state daily incarceration rate" means the average daily incarceration rate,  
1604 calculated by the department based on the previous three fiscal years, that reflects the following  
1605 expenses incurred by the department for housing an inmate:

1606 (a) executive overhead;

- 1607 (b) administrative overhead;
- 1608 (c) transportation overhead;
- 1609 (d) division overhead; and
- 1610 (e) motor pool expenses.
- 1611 (3) "Alternative treatment" means:
- 1612 (a) evidence-based cognitive behavioral therapy; or
- 1613 (b) a certificate-based program provided by a Utah technical college, as defined in
- 1614 Section [53B-26-102](#).
- 1615 (4) "Annual inmate jail days" means the total number of state probationary inmates
- 1616 housed in a county jail each day for the preceding fiscal year.
- 1617 (5) "CCJJ" means the Utah Commission on Criminal and Juvenile Justice, created in
- 1618 Section [63M-7-201](#).
- 1619 (6) "Department" means the Department of Corrections.
- 1620 (7) "Division of Finance" means the Division of Finance, created in Section
- 1621 [63A-3-101](#).
- 1622 (8) "Final county daily incarceration rate" means the amount equal to:
- 1623 (a) the amount appropriated by the Legislature for the purpose of making payments to
- 1624 counties under Section [64-13e-104](#); divided by
- 1625 (b) the average annual inmate jail days for the preceding five fiscal years.
- 1626 (9) "Jail daily incarceration costs" means the following daily costs incurred by a county
- 1627 jail for housing a state probationary inmate on behalf of the department:
- 1628 (a) executive overhead;
- 1629 (b) administrative overhead;
- 1630 (c) transportation overhead;
- 1631 (d) division overhead; and
- 1632 (e) motor pool expenses.
- 1633 (10) "State inmate" means an individual, other than a state probationary inmate or state
- 1634 parole inmate, who is committed to the custody of the department.
- 1635 (11) "State parole inmate" means an individual who is:
- 1636 (a) on parole, as defined in Section [77-27-1](#); and
- 1637 (b) housed in a county jail for a reason related to the individual's parole.

1638 (12) "State probationary inmate" means a felony probationer sentenced to time in a  
1639 county jail under Subsection [~~77-18-1(8)~~] 77-18-105(6).

1640 (13) "Treatment program" means:

1641 (a) an alcohol treatment program;

1642 (b) a substance abuse treatment program;

1643 (c) a sex offender treatment program; or

1644 (d) an alternative treatment program.

1645 Section 25. Section **75-7-503** is amended to read:

1646 **75-7-503. Exceptions to spendthrift provision.**

1647 (1) As used in this section:

1648 (a) "Child" includes any person for whom an order or judgment for child support has  
1649 been entered in this or another state.

1650 (b) "Civil accounts receivable" means the same as that term is defined in Section  
1651 77-32b-102.

1652 (c) "Civil restitution of judgment" means the same as that term is defined in Section  
1653 77-32b-102.

1654 [~~(b)~~] (d) "Restitution" means the same as that term is defined in Section [~~77-38a-102~~]  
1655 77-38b-102.

1656 [~~(c)~~] (e) "Victim" means the same as that term is defined in Section [~~77-38a-102~~]  
1657 77-38b-102.

1658 (2) Even if a trust contains a spendthrift provision, the following persons may obtain  
1659 [~~from a court an order attaching~~] an order from a court that attaches present or future  
1660 distributions to the beneficiary:

1661 (a) a beneficiary's child who has a judgment or court order against the beneficiary for  
1662 support or maintenance;

1663 (b) a judgment creditor who has provided services for the protection of a beneficiary's  
1664 interest in the trust; [~~or~~]

1665 (c) a victim who has a judgment requiring the beneficiary to pay restitution in  
1666 accordance with Title 77, [~~Chapter 38a,~~] Chapter 38b, Crime Victims Restitution Act, or  
1667 similar provision in another state[~~;~~]; or

1668 (d) the Office of State Debt Collection, created in Section 63A-3-502, for collecting

1669 payment on a civil accounts receivable or a civil judgment of restitution.

1670 (3) A spendthrift provision is unenforceable against a claim of this state or the United  
1671 States to the extent a statute of this state or federal law so provides.

1672 Section 26. Section **76-2-404** is amended to read:

1673 **76-2-404. Peace officer's use of deadly force.**

1674 (1) A peace officer, or any person acting by the officer's command in providing aid and  
1675 assistance, is justified in using deadly force when:

1676 (a) the officer is acting in obedience to and in accordance with the judgment of a  
1677 competent court in executing a penalty of death under Subsection [~~77-18-5.5~~] 77-18-113(2),  
1678 (3), or (4);

1679 (b) effecting an arrest or preventing an escape from custody following an arrest, where  
1680 the officer reasonably believes that deadly force is necessary to prevent the arrest from being  
1681 defeated by escape; and

1682 (i) the officer has probable cause to believe that the suspect has committed a felony  
1683 offense involving the infliction or threatened infliction of death or serious bodily injury; or

1684 (ii) the officer has probable cause to believe the suspect poses a threat of death or  
1685 serious bodily injury to the officer or to others if apprehension is delayed; or

1686 (c) the officer reasonably believes that the use of deadly force is necessary to prevent  
1687 death or serious bodily injury to the officer or another person.

1688 (2) If feasible, a verbal warning should be given by the officer prior to any use of  
1689 deadly force under Subsection (1)(b) or (1)(c).

1690 Section 27. Section **76-3-201** is repealed and reenacted to read:

1691 **76-3-201. Sentences or combination of sentences allowed -- Restitution and other**  
1692 **costs -- Civil penalties.**

1693 (1) As used in this section:

1694 (a) (i) "Convicted" means:

1695 (A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a  
1696 mental illness; or

1697 (B) having received a judgment of guilty or a judgment of guilty with a mental illness.

1698 (ii) "Convicted" does not include an adjudication of an offense under Section

1699 78A-6-117.

1700           **(b)** "Restitution" means the same as that term is defined in Section [77-38b-102](#).  
1701           **(2)** Within the limits provided by this chapter, a court may sentence an individual  
1702 convicted of an offense to any one of the following sentences, or combination of the following  
1703 sentences:  
1704           **(a)** to pay a fine;  
1705           **(b)** to removal or disqualification from public or private office;  
1706           **(c)** except as otherwise provided by law, to probation in accordance with Section  
1707 [77-18-105](#);  
1708           **(d)** to imprisonment;  
1709           **(e)** on or after April 27, 1992, to life in prison without parole; or  
1710           **(f)** to death.  
1711           **(3)** (a) This chapter does not deprive a court of authority conferred by law:  
1712           **(i)** to forfeit property;  
1713           **(ii)** to dissolve a corporation;  
1714           **(iii)** to suspend or cancel a license;  
1715           **(iv)** to permit removal of an individual from office;  
1716           **(v)** to cite for contempt; or  
1717           **(vi)** to impose any other civil penalty.  
1718           **(b)** A court may include a civil penalty in a sentence.  
1719           **(4)** In addition to any other sentence that a sentencing court may impose, the court shall  
1720 order an individual to:  
1721           **(a)** pay restitution in accordance with Title 77, Chapter 38b, Crime Victim Restitution  
1722 Act;  
1723           **(b)** subject to Subsection (5) and Section [77-32b-104](#), pay the cost of any government  
1724 transportation if the individual was:  
1725           **(i)** transported, in accordance with a court order, from one county to another county  
1726 within the state;  
1727           **(ii)** charged with a felony or a misdemeanor; and  
1728           **(iii)** convicted of an offense;  
1729           **(c)** subject to Section [77-32b-104](#), pay the cost expended by an appropriate  
1730 governmental entity under Section [77-30-24](#) for the extradition of the individual if the

1731 individual:

1732 (i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve

1733 pending criminal charges; and

1734 (ii) is convicted of an offense in the county for which the individual is returned;

1735 (d) subject to Subsection (6) and Subsections 77-32b-104(2), (3), and (4), pay the cost

1736 of medical care, treatment, hospitalization, and related transportation, as described in Section

1737 17-50-319, that is provided by a county to the individual while the individual is in a county

1738 correctional facility before and after sentencing if:

1739 (i) the individual is convicted of an offense that results in incarceration in the county

1740 correctional facility; and

1741 (ii) (A) the individual is not a state prisoner housed in the county correctional facility

1742 through a contract with the Department of Corrections; or

1743 (B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104

1744 if the individual is a state probationary inmate or a state parole inmate; and

1745 (e) pay any other cost that the court determines is appropriate under Section

1746 77-32b-104.

1747 (5) (a) The court may not order an individual to pay the costs of government

1748 transportation under Subsection (4)(b) if:

1749 (i) the individual is charged with an infraction or a warrant is issued for an infraction

1750 on a subsequent failure to appear; or

1751 (ii) the individual was not transported in accordance with a court order.

1752 (b) (i) The cost of governmental transportation under Subsection (4)(b) shall be

1753 calculated according to the following schedule:

1754 (A) \$100 for up to 100 miles that an individual is transported;

1755 (B) \$200 for 100 miles to 200 miles that an individual is transported; and

1756 (C) \$350 for 200 miles or more that an individual is transported.

1757 (ii) The schedule under Subsection (5)(b)(i) applies to each individual transported

1758 regardless of the number of individuals transported in a single trip.

1759 (6) The cost of medical care under Subsection (4)(d) does not include expenses

1760 incurred by the county correctional facility in providing reasonable accommodation for an

1761 inmate qualifying as an individual with a disability as defined and covered by the Americans

1762 with Disabilities Act, 42 U.S.C. 12101 through 12213, including medical and mental health  
1763 treatment for the inmate's disability.

1764 Section 28. Section **76-3-208** is amended to read:

1765 **76-3-208. Imprisonment -- Custodial authorities.**

1766 (1) Persons sentenced to imprisonment shall be committed to the following custodial  
1767 authorities:

1768 (a) felony commitments shall be to the Utah State Prison;

1769 (b) (i) notwithstanding Section [76-3-204](#), class A misdemeanor commitments shall be  
1770 to the jail, or other facility designated by the town, city, or county where the defendant was  
1771 convicted, unless the defendant is also serving a felony commitment at the Utah State Prison at  
1772 the commencement of the class A misdemeanor conviction, in which case, the class A  
1773 misdemeanor commitment shall be to the Utah State Prison for an indeterminate term not to  
1774 exceed one year with a credit for one day; and

1775 (ii) the court may not order the imprisonment of a defendant to the Utah State Prison  
1776 for a fixed term or other term that is inconsistent with this section and Section [\[77-18-4\]](#)  
1777 [77-18-111](#); and

1778 (c) all other misdemeanor commitments shall be to the jail or other facility designated  
1779 by the town, city or county where the defendant was convicted.

1780 (2) ~~[Custodial authorities]~~ A custodial authority may place a prisoner in a facility other  
1781 than the one to which the prisoner was committed when:

1782 (a) ~~[it]~~ the custodial authority does not have space to accommodate the prisoner; or

1783 (b) the security of the institution or ~~[inmate requires it.]~~ prisoner requires the prisoner  
1784 to be placed in a facility other than the one to which the prisoner was committed.

1785 Section 29. Section **76-3-301.5** is amended to read:

1786 **76-3-301.5. Uniform fine schedule -- Judicial Council.**

1787 (1) The Judicial Council shall establish a uniform recommended fine schedule for each  
1788 offense under Subsection [76-3-301\(1\)](#).

1789 (a) The fine for each offense shall proportionally reflect the seriousness of the offense  
1790 and other factors as determined in writing by the Judicial Council.

1791 (b) The schedule shall be reviewed annually by the Judicial Council.

1792 (c) The fines shall be collected ~~[under Section [77-18-1](#).]~~ as part of a criminal accounts

1793 receivable, as defined in Section [77-32b-102](#), that is established under Section [77-32b-103](#).

1794 (2) The schedule shall incorporate:

1795 (a) criteria for determining aggravating and mitigating circumstances; and

1796 (b) guidelines for enhancement or reduction of the fine, based on aggravating or  
1797 mitigating circumstances.

1798 (3) Presentence investigation reports shall include documentation of aggravating and  
1799 mitigating circumstances as determined under the criteria, and a recommended fine under the  
1800 schedule.

1801 (4) The Judicial Council shall also establish a separate uniform recommended fine  
1802 schedule for the juvenile court and by rule provide for its implementation.

1803 (5) This section does not prohibit the court from in its discretion imposing no fine, or a  
1804 fine in any amount up to and including the maximum fine, for the offense.

1805 Section 30. Section **76-3-406** is amended to read:

1806 **76-3-406. Crimes for which probation, suspension of sentence, lower category of**  
1807 **offense, or hospitalization may not be granted.**

1808 (1) Notwithstanding Sections [76-3-201](#) and [~~77-18-1~~] [77-18-105](#) and Title 77, Chapter  
1809 16a, Commitment and Treatment of Persons with a Mental Illness, except as provided in  
1810 Section [76-5-406.5](#), probation may not be granted, the execution or imposition of sentence may  
1811 not be suspended, the court may not enter a judgment for a lower category of offense, and  
1812 hospitalization may not be ordered, the effect of which would in any way shorten the prison  
1813 sentence for an individual who commits a capital felony or a first degree felony involving:

1814 (a) Section [76-5-202](#), aggravated murder;

1815 (b) Section [76-5-203](#), murder;

1816 (c) Section [76-5-301.1](#), child kidnaping;

1817 (d) Section [76-5-302](#), aggravated kidnaping;

1818 (e) Section [76-5-402](#), rape, if the individual is sentenced under Subsection

1819 [76-5-402](#)(3)(b), (3)(c), or (4);

1820 (f) Section [76-5-402.1](#), rape of a child;

1821 (g) Section [76-5-402.2](#), object rape, if the individual is sentenced under Subsection

1822 [76-5-402.2](#)(1)(b), (1)(c), or (2);

1823 (h) Section [76-5-402.3](#), object rape of a child;

- 1824 (i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection  
1825 76-5-403(3)(b), (3)(c), or (4);
- 1826 (j) Section 76-5-403.1, sodomy on a child;
- 1827 (k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under  
1828 Subsection 76-5-404(2)(b) or (3);
- 1829 (l) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;
- 1830 (m) Section 76-5-405, aggravated sexual assault; or
- 1831 (n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).
- 1832 (2) Except for an offense before the district court in accordance with Section  
1833 78A-6-703.2 or 78A-6-703.5, the provisions of this section do not apply if the sentencing court  
1834 finds that the defendant:
- 1835 (a) was under 18 years old at the time of the offense; and
- 1836 (b) could have been adjudicated in the juvenile court but for the delayed reporting or  
1837 delayed filing of the information.
- 1838 Section 31. Section 76-6-107.1 is amended to read:
- 1839 **76-6-107.1. Compensatory service -- Graffiti penalties.**
- 1840 (1) If an offender uses graffiti and is convicted under Section 76-6-106 or 76-6-206 for  
1841 ~~[its use]~~ the use of graffiti, the court may, as a condition of probation under Subsection  
1842 ~~[77-18-1(8)]~~ 77-18-105(6), order the offender to clean up graffiti of ~~[his own]~~ the offender and  
1843 any other at a time and place within the jurisdiction of the court.
- 1844 (a) For a first conviction or adjudication, the court may require the offender to clean up  
1845 graffiti for not less than eight hours.
- 1846 (b) For a second conviction or adjudication, the court may require the offender to clean  
1847 up graffiti for not less than 16 hours.
- 1848 (c) For a third conviction or adjudication, the court may require the offender to clean  
1849 up graffiti for not less than 24 hours.
- 1850 (2) The offender convicted under Section 76-6-106, 76-6-206, or 76-6-107 shall be  
1851 responsible for removal costs as determined under Section 76-6-107, unless waived by the  
1852 court for good cause.
- 1853 (3) The court may also require the offender to perform other alternative forms of  
1854 restitution or repair to the damaged property ~~[pursuant to Subsection 77-18-1(8).]~~ in

1855 accordance with Subsection [77-18-105\(6\)](#).

1856 Section 32. Section **76-6-111** is amended to read:

1857 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**  
1858 **Seizure and disposition of property.**

1859 (1) As used in this section:

1860 (a) "Law enforcement officer" means the same as that term is defined in Section  
1861 [53-13-103](#).

1862 (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit,  
1863 including:

1864 (i) cattle;

1865 (ii) sheep;

1866 (iii) goats;

1867 (iv) swine;

1868 (v) horses;

1869 (vi) mules;

1870 (vii) poultry; and

1871 (viii) domesticated elk as defined in Section [4-39-102](#).

1872 (2) Unless authorized by Section [4-25-201](#), [4-25-202](#), [4-25-401](#), [4-39-401](#), or [18-1-3](#), a  
1873 person is guilty of wanton destruction of livestock if that person:

1874 (a) injures, physically alters, releases, or causes the death of livestock; and

1875 (b) does so:

1876 (i) intentionally or knowingly; and

1877 (ii) without the permission of the owner of the livestock.

1878 (3) Wanton destruction of livestock is punishable as a:

1879 (a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;

1880 (b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but  
1881 does not exceed \$1,500;

1882 (c) third degree felony if the aggregate value of the livestock is more than \$1,500, but  
1883 does not exceed \$5,000; and

1884 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.

1885 (4) When a court orders a person who is convicted of wanton destruction of livestock

1886 to pay restitution under Title 77, Chapter ~~[38a]~~ 38b, Crime Victims Restitution Act, the court  
1887 shall consider~~[-in addition to the restitution criteria in Section 77-38a-302, the restitution~~  
1888 ~~guidelines in Subsection (5) when setting the amount.]~~ the restitution guidelines in Subsection  
1889 (5) when setting the amount of restitution under Section 77-38b-205.

1890 (5) The minimum restitution value for cattle and sheep is the sum of the following,  
1891 unless the court states on the record why it finds the sum to be inappropriate:

1892 (a) the fair market value of the animal, using as a guide the market information  
1893 obtained from the Department of Agriculture and Food created under Section 4-2-102; and

1894 (b) 10 years times the average annual value of offspring, for which average annual  
1895 value is determined using data obtained from the National Agricultural Statistics Service within  
1896 the United States Department of Agriculture, for the most recent 10-year period available.

1897 (6) A material, device, or vehicle used in violation of Subsection (2) is subject to  
1898 forfeiture under the procedures and substantive protections established in Title 24, Forfeiture  
1899 and Disposition of Property Act.

1900 (7) A peace officer may seize a material, device, or vehicle used in violation of  
1901 Subsection (2):

1902 (a) upon notice and service of process issued by a court having jurisdiction over the  
1903 property; or

1904 (b) without notice and service of process if:

1905 (i) the seizure is incident to an arrest under:

1906 (A) a search warrant; or

1907 (B) an inspection under an administrative inspection warrant;

1908 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of  
1909 the state in a criminal injunction or forfeiture proceeding under this section; or

1910 (iii) the peace officer has probable cause to believe that the property has been used in  
1911 violation of Subsection (2).

1912 (8) (a) A material, device, or vehicle seized under this section is not repleviable but is  
1913 in custody of the law enforcement agency making the seizure, subject only to the orders and  
1914 decrees of a court or official having jurisdiction.

1915 (b) A peace officer who seizes a material, device, or vehicle under this section may:

1916 (i) place the property under seal;

1917 (ii) remove the property to a place designated by the warrant under which it was seized;  
1918 or

1919 (iii) take custody of the property and remove it to an appropriate location for  
1920 disposition in accordance with law.

1921 Section 33. Section **76-6-206.2** is amended to read:

1922 **76-6-206.2. Criminal trespass on state park lands -- Penalties.**

1923 (1) ~~[For purposes of this section]~~ As used in this section:

1924 (a) "Authorization" means specific written permission by, or contractual agreement  
1925 with, the Division of Parks and Recreation.

1926 (b) "Criminal trespass" means the elements of the crime of criminal trespass, as set  
1927 forth in Section [76-6-206](#).

1928 (c) "Division" means the Division of Parks and Recreation~~[;]~~ created in Section  
1929 [79-4-201](#).

1930 (d) "State park lands" means all lands administered by the division.

1931 (2) A person is guilty of criminal trespass on state park lands and is liable for the civil  
1932 damages prescribed in Subsection (5) if, under circumstances not amounting to a greater  
1933 offense, and without authorization, the person:

1934 (a) constructs improvements or structures on state park lands;

1935 (b) uses or occupies state park lands for more than 30 days after the cancellation or  
1936 expiration of authorization;

1937 (c) knowingly or intentionally uses state park lands for commercial gain;

1938 (d) intentionally or knowingly grazes livestock on state park lands, except as provided  
1939 in Section [72-3-112](#); or

1940 (e) remains, after being ordered to leave by someone with actual authority to act for the  
1941 division, or by a law enforcement officer.

1942 (3) A person is not guilty of criminal trespass if that person enters onto state park  
1943 lands:

1944 (a) without first paying the required fee; and

1945 (b) for the sole purpose of pursuing recreational activity.

1946 (4) A violation of Subsection (2) is a class B misdemeanor.

1947 (5) In addition to ~~[restitution, as provided in Section [76-3-201](#)]~~ an order for restitution

1948 under Section [77-38b-205](#), a person who commits any act described in Subsection (2) may also  
1949 be liable for civil damages in the amount of three times the value of:

- 1950 (a) damages resulting from a violation of Subsection (2);
- 1951 (b) the water, mineral, vegetation, improvement, or structure on state park lands that is  
1952 removed, destroyed, used, or consumed without authorization;
- 1953 (c) the historical, prehistorical, archaeological, or paleontological resource on state  
1954 park lands that is removed, destroyed, used, or consumed without authorization; or
- 1955 (d) the consideration which would have been charged by the division for unauthorized  
1956 use of the land and resources during the period of trespass.
- 1957 (e) Civil damages under Subsection (5) may be collected in a separate action by the  
1958 division, and shall be deposited in the State Parks Fees Restricted Account as established in  
1959 Section [79-4-402](#).

1960 Section 34. Section **76-6-206.3** is amended to read:

1961 **76-6-206.3. Criminal trespass on agricultural land or range land.**

1962 (1) As used in this section:

1963 (a) "Agricultural or range land" and "land" mean land as defined under Subsections  
1964 (1)(d) and (e).

1965 (b) "Authorization" means specific written permission by, or contractual agreement  
1966 with, the owner or manager of the property.

1967 (c) "Criminal trespass" means the elements of the crime of criminal trespass under  
1968 Section [76-6-206](#).

1969 (d) "Land in agricultural use" has the same meaning as in Section [59-2-502](#).

1970 (e) "Range land" means privately owned land that is not fenced or divided into lots and  
1971 that is generally unimproved. This land includes land used for livestock.

1972 (2) A person is guilty of the class B misdemeanor criminal offense of criminal trespass  
1973 on agricultural or range land and is liable for the civil damages under Subsection (5) if, under  
1974 circumstances not amounting to a greater offense, and without authorization or a right under  
1975 state law, the person enters or remains on agricultural or range land regarding which notice  
1976 prohibiting entry is given by:

1977 (a) personal communication to the person by the owner of the land, an employee of the  
1978 owner, or a person with apparent authority to act for the owner;

1979 (b) fencing or other form of enclosure a reasonable person would recognize as intended  
1980 to exclude intruders; or

1981 (c) posted signs or markers that would reasonably be expected to be seen by persons in  
1982 the area of the borders of the land.

1983 (3) A person is guilty of the class B misdemeanor criminal offense of cutting,  
1984 destroying, or rendering ineffective the fencing of agricultural or range land if the person  
1985 willfully cuts, destroys, or renders ineffective any fencing as described under Subsection (2)(b).

1986 (4) In addition to [~~restitution, as provided in Section 76-3-201~~] an order for restitution  
1987 under Section 77-38b-205, a person who commits any violation of Subsection (2) or (3) may  
1988 also be liable for:

1989 (a) statutory damages in the amount of the value of damages resulting from the  
1990 violation of Subsection (2) or \$500, whichever is greater; and

1991 (b) reasonable attorney fees not to exceed \$250, and court costs.

1992 (5) Civil damages under Subsection (4) may be collected in a separate action by the  
1993 owner of the agricultural or range land or the owner's assignee.

1994 Section 35. Section **76-6-1102** is amended to read:

1995 **76-6-1102. Identity fraud crime.**

1996 (1) As used in this part[, "~~personal~~]:

1997 (a) "Personal identifying information" may include:

1998 [~~(a)~~] (i) name;

1999 [~~(b)~~] (ii) birth date;

2000 [~~(c)~~] (iii) address;

2001 [~~(d)~~] (iv) telephone number;

2002 [~~(e)~~] (v) drivers license number;

2003 [~~(f)~~] (vi) Social Security number;

2004 [~~(g)~~] (vii) place of employment;

2005 [~~(h)~~] (viii) employee identification numbers or other personal identification numbers;

2006 [~~(i)~~] (ix) mother's maiden name;

2007 [~~(j)~~] (x) electronic identification numbers;

2008 [~~(k)~~] (xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic

2009 Transactions Act;

2010            [(†)] (xii) any other numbers or information that can be used to access a person's  
2011 financial resources or medical information, except for numbers or information that can be  
2012 prosecuted as financial transaction card offenses under Sections 76-6-506 through 76-6-506.6;  
2013 or

2014            [(†)] (xiii) a photograph or any other realistic likeness.

2015            (b) "Restitution" means the same as that term is defined in Section 77-38b-102.

2016            (2) (a) A person is guilty of identity fraud when that person knowingly or intentionally  
2017 uses, or attempts to use, the personal identifying information of another person, whether that  
2018 person is alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain,  
2019 credit, goods, services, employment, any other thing of value, or medical information.

2020            (b) It is not a defense to a violation of Subsection (2)(a) that the person did not know  
2021 that the personal information belonged to another person.

2022            (3) Identity fraud is:

2023            (a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the  
2024 credit, goods, services, employment, or any other thing of value is less than \$5,000; or

2025            (b) a second degree felony if:

2026            (i) the value of the credit, goods, services, employment, or any other thing of value is  
2027 or exceeds \$5,000; or

2028            (ii) the use described in Subsection (2)(a) of personal identifying information results,  
2029 directly or indirectly, in bodily injury to another person.

2030            (4) Multiple violations may be aggregated into a single offense, and the degree of the  
2031 offense is determined by the total value of all credit, goods, services, or any other thing of  
2032 value used, or attempted to be used, through the multiple violations.

2033            (5) When a defendant is convicted of a violation of this section, the court shall order  
2034 the defendant to [~~make restitution to any victim of the offense or state on the record the reason~~  
2035 ~~the court does not find ordering restitution to be appropriate~~] pay restitution in accordance with  
2036 Title 77, Chapter 38b, Crime Victims Restitution Act.

2037            (6) Restitution under Subsection (5) may include:

2038            (a) payment for any costs incurred, including attorney fees, lost wages, and  
2039 replacement of checks; and

2040            (b) the value of the victim's time incurred due to the offense:

- 2041 (i) in clearing the victim's credit history or credit rating;
- 2042 (ii) in any civil or administrative proceedings necessary to satisfy or resolve any debt,
- 2043 lien, or other obligation of the victim or imputed to the victim and arising from the offense; and
- 2044 (iii) in attempting to remedy any other intended or actual harm to the victim incurred as
- 2045 a result of the offense.

2046 Section 36. Section **76-6-1105** is amended to read:

2047 **76-6-1105. Unlawful possession of another's identification documents.**

2048 (1) As used in this section:

2049 (a) (i) "Identifying document" means:

2050 (A) a government issued document commonly used for identification;

2051 (B) a vehicle registration certificate; or

2052 (C) any other document, image, data file, or medium containing personal identifying

2053 information as defined in Subsections ~~76-6-1102[(1)(b) through (m)]~~ (1)(a)(ii) through (xiii).

2054 (ii) "Identifying document" includes:

2055 (A) a counterfeit identifying document; or

2056 (B) a document containing personal identifying information of a deceased individual.

2057 (b) "Possess" means to have physical control or electronic access.

2058 (2) (a) Under circumstances that do not constitute a violation of Section **76-6-1102** or

2059 Section **76-6-502**, an individual is guilty of a class A misdemeanor if the individual:

2060 (i) obtains or possesses an identifying document:

2061 (A) with knowledge that the individual is not entitled to obtain or possess the

2062 identifying document; or

2063 (B) with intent to deceive or defraud; or

2064 (ii) assists another person in obtaining or possessing an identifying document:

2065 (A) with knowledge that the person is not entitled to obtain or possess the identifying

2066 document; or

2067 (B) with knowledge that the person intends to use the identifying document to deceive

2068 or defraud.

2069 (b) Under circumstances that do not constitute a violation of Section **76-6-1102**, an

2070 individual is guilty of a third degree felony if the individual:

2071 (i) obtains or possesses identifying documents of more than two, but fewer than 100,

2072 individuals:

2073 (A) with knowledge that the individual is not entitled to obtain or possess the  
2074 identifying documents; or

2075 (B) with intent to deceive or defraud; or

2076 (ii) assists another person in obtaining or possessing identifying documents of more  
2077 than two, but fewer than 100, individuals:

2078 (A) with knowledge that the person is not entitled to obtain or possess the multiple  
2079 identifying documents; or

2080 (B) with knowledge that the person intends to use the identifying documents to deceive  
2081 or defraud.

2082 (c) Under circumstances that do not constitute a violation of Section 76-6-1102, an  
2083 individual is guilty of a second degree felony if the individual:

2084 (i) obtains or possesses identifying documents of 100 or more individuals:

2085 (A) with knowledge that the individual is not entitled to obtain or possess the  
2086 identifying documents; or

2087 (B) with intent to deceive or defraud; or

2088 (ii) assists another person in obtaining or possessing identifying documents of 100 or  
2089 more individuals:

2090 (A) with knowledge that the person is not entitled to obtain or possess the identifying  
2091 documents; or

2092 (B) with knowledge that the person intends to use the identifying documents to deceive  
2093 or defraud.

2094 Section 37. Section 76-10-1204 is amended to read:

2095 **76-10-1204. Distributing pornographic material -- Penalties -- Exemptions for**  
2096 **Internet service providers and hosting companies.**

2097 (1) A person is guilty of distributing pornographic material when the person  
2098 knowingly:

2099 (a) sends or brings any pornographic material into the state with intent to distribute or  
2100 exhibit it to others;

2101 (b) prepares, publishes, prints, or possesses any pornographic material with intent to  
2102 distribute or exhibit it to others;

2103 (c) distributes or offers to distribute, or exhibits or offers to exhibit, any pornographic  
2104 material to others;

2105 (d) writes, creates, or solicits the publication or advertising of pornographic material;

2106 (e) promotes the distribution or exhibition of material the person represents to be  
2107 pornographic; or

2108 (f) presents or directs a pornographic performance in any public place or any place  
2109 exposed to public view or participates in that portion of the performance which makes it  
2110 pornographic.

2111 (2) Each distributing of pornographic material as defined in Subsection (1) is a separate  
2112 offense.

2113 (3) It is a separate offense under this section for:

2114 (a) each day's exhibition of any pornographic motion picture film; and

2115 (b) each day in which any pornographic publication is displayed or exhibited in a  
2116 public place with intent to distribute or exhibit it to others.

2117 (4) (a) An offense under this section committed by a person 18 years [~~of age~~] old or  
2118 older is a third degree felony punishable by:

2119 (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article  
2120 exhibited up to the maximum allowed by law; and

2121 (ii) incarceration, without suspension of sentence in any way, for a term of not less than  
2122 30 days.

2123 (b) An offense under this section committed by a person 16 or 17 years [~~of age~~] old is a  
2124 class A misdemeanor.

2125 (c) An offense under this section committed by a person younger than 16 years [~~of age~~]  
2126 old is a class B misdemeanor.

2127 (d) Subsection (4)(a) supersedes Section [~~77-18-1~~] [77-18-105](#).

2128 (5) A person 18 years [~~of age~~] old or older who knowingly solicits, requests,  
2129 commands, encourages, or intentionally aids another person younger than 18 years [~~of age~~] old  
2130 to engage in conduct prohibited under Subsection (1), (2), or (3) is guilty of a third degree  
2131 felony and is subject to the penalties under Subsection (4)(a).

2132 (6) (a) This section does not apply to an Internet service provider, as defined in Section  
2133 [76-10-1230](#), if:

2134 (i) the distribution of pornographic material by the Internet service provider occurs  
2135 only incidentally through the Internet service provider's function of:  
2136 (A) transmitting or routing data from one person to another person; or  
2137 (B) providing a connection between one person and another person;  
2138 (ii) the Internet service provider does not intentionally aid or abet in the distribution of  
2139 the pornographic material; and  
2140 (iii) the Internet service provider does not knowingly receive funds from or through a  
2141 person who distributes the pornographic material in exchange for permitting the person to  
2142 distribute the pornographic material.

2143 (b) This section does not apply to a hosting company, as defined in Section  
2144 76-10-1230, if:

2145 (i) the distribution of pornographic material by the hosting company occurs only  
2146 incidentally through the hosting company's function of providing data storage space or data  
2147 caching to a person;  
2148 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution  
2149 of the pornographic material; and  
2150 (iii) the hosting company does not knowingly receive funds from or through a person  
2151 who distributes the pornographic material in exchange for permitting the person to distribute,  
2152 store, or cache the pornographic material.

2153 Section 38. Section 76-10-1205 is amended to read:

2154 **76-10-1205. Inducing acceptance of pornographic material -- Exemptions for**  
2155 **Internet service providers and hosting companies.**

2156 (1) A person is guilty of inducing acceptance of pornographic material when he  
2157 knowingly:  
2158 (a) requires or demands as a condition to a sale, allocation, consignment, or delivery  
2159 for resale of any newspaper, magazine, periodical, book, publication, or other merchandise that  
2160 the purchaser or consignee receive any pornographic material or material reasonably believed  
2161 by the purchaser or consignee to be pornographic; or  
2162 (b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any  
2163 penalty, financial or otherwise, because of the failure or refusal to accept pornographic material  
2164 or material reasonably believed by the purchaser or consignee to be pornographic.

2165 (2) (a) An offense under this section is a third degree felony punishable by:  
2166 (i) a minimum mandatory fine of not less than \$1,000 plus \$10 for each article  
2167 exhibited up to the maximum allowed by law; and  
2168 (ii) incarceration, without suspension of sentence in any way, for a term of not less than  
2169 30 days.  
2170 (b) This Subsection (2) supersedes Section [~~77-18-1~~] [77-18-105](#).  
2171 (3) (a) This section does not apply to an Internet service provider, as defined in Section  
2172 [76-10-1230](#), if:  
2173 (i) the distribution of pornographic material by the Internet service provider occurs  
2174 only incidentally through the Internet service provider's function of:  
2175 (A) transmitting or routing data from one person to another person; or  
2176 (B) providing a connection between one person and another person;  
2177 (ii) the Internet service provider does not intentionally aid or abet in the distribution of  
2178 the pornographic material; and  
2179 (iii) the Internet service provider does not knowingly receive funds from or through a  
2180 person who distributes the pornographic material in exchange for permitting the person to  
2181 distribute the pornographic material.  
2182 (b) This section does not apply to a hosting company, as defined in Section  
2183 [76-10-1230](#), if:  
2184 (i) the distribution of pornographic material by the hosting company occurs only  
2185 incidentally through the hosting company's function of providing data storage space or data  
2186 caching to a person;  
2187 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution  
2188 of the pornographic material; and  
2189 (iii) the hosting company does not knowingly receive funds from or through a person  
2190 who distributes the pornographic material in exchange for permitting the person to distribute,  
2191 store, or cache the pornographic material.  
2192 Section 39. Section **76-10-1206** is amended to read:  
2193 **76-10-1206. Dealing in material harmful to a minor -- Penalties -- Exemptions for**  
2194 **Internet service providers and hosting companies.**  
2195 (1) A person is guilty of dealing in material harmful to minors when, knowing or

2196 believing that an individual is a minor, or having negligently failed to determine the proper age  
2197 of a minor, the person intentionally:

2198 (a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or an  
2199 individual whom the person believes to be a minor, any material harmful to minors;

2200 (b) produces, performs, or directs any performance, before a minor or an individual  
2201 whom the person believes to be a minor, that is harmful to minors; or

2202 (c) participates in any performance, before a minor or an individual whom the person  
2203 believes to be a minor, that is harmful to minors.

2204 (2) (a) Except as provided in Subsection (2)(b), each separate offense under this section  
2205 committed by a person 18 years [~~of age~~] old or older is a third degree felony punishable by:

2206 (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article  
2207 exhibited up to the maximum allowed by law; and

2208 (ii) incarceration, without suspension of sentence, for a term of not less than 14 days.

2209 (b) Each separate offense under this section committed by a person 18 years [~~of age~~]  
2210 old or older against a minor 16 years [~~of age~~] old or older, but younger than 18 years [~~of age~~]  
2211 old, is a class A misdemeanor if the person is less than seven years older than the minor at the  
2212 time of the offense.

2213 (c) Each separate offense under this section committed by a person 16 or 17 years [~~of~~  
2214 ~~age~~] old is a class A misdemeanor.

2215 (d) Each separate offense under this section committed by a person younger than 16  
2216 years [~~of age~~] old is a class B misdemeanor.

2217 (e) Subsection (2)(a) supersedes Section [~~77-18-1~~] 77-18-105.

2218 (3) (a) Except for a defendant described in Subsection (2)(b), if a defendant 18 years [~~of~~  
2219 ~~age~~] old or older has been previously convicted or adjudicated [~~to be under the jurisdiction of~~]  
2220 by the juvenile court under this section, each separate subsequent offense is a second degree  
2221 felony punishable by:

2222 (i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article  
2223 exhibited up to the maximum allowed by law; and

2224 (ii) incarceration, without suspension of sentence, for a term of not less than one year.

2225 (b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years  
2226 [~~of age~~] old has been previously convicted or adjudicated [~~to be under the jurisdiction of~~] by

2227 the juvenile court under this section, each separate subsequent offense is a third degree felony.

2228 (c) Subsection (3)(a) supersedes Section [~~77-18-1~~] [77-18-105](#).

2229 (d) (i) This section does not apply to an Internet service provider, as defined in Section  
2230 [76-10-1230](#), a provider of an electronic communications service as defined in 18 U.S.C. Sec.  
2231 2510, a telecommunications service, information service, or mobile service as defined in 47  
2232 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or  
2233 a cable operator as defined in 47 U.S.C. Sec. 522, if:

2234 (A) the distribution of pornographic material by the Internet service provider occurs  
2235 only incidentally through the provider's function of:

2236 (I) transmitting or routing data from one person to another person; or

2237 (II) providing a connection between one person and another person;

2238 (B) the provider does not intentionally aid or abet in the distribution of the  
2239 pornographic material; and

2240 (C) the provider does not knowingly receive from or through a person who distributes  
2241 the pornographic material a fee greater than the fee generally charged by the provider, as a  
2242 specific condition for permitting the person to distribute the pornographic material.

2243 (ii) This section does not apply to a hosting company, as defined in Section  
2244 [76-10-1230](#), if:

2245 (A) the distribution of pornographic material by the hosting company occurs only  
2246 incidentally through the hosting company's function of providing data storage space or data  
2247 caching to a person;

2248 (B) the hosting company does not intentionally engage, aid, or abet in the distribution  
2249 of the pornographic material; and

2250 (C) the hosting company does not knowingly receive from or through a person who  
2251 distributes the pornographic material a fee greater than the fee generally charged by the  
2252 provider, as a specific condition for permitting the person to distribute, store, or cache the  
2253 pornographic material.

2254 (4) A service provider, as defined in Section [76-10-1230](#), is not negligent under this  
2255 section if the service provider complies with Section [76-10-1231](#).

2256 (5) A person 18 years [~~of age~~] old or older who knowingly solicits, requests,  
2257 commands, encourages, or intentionally aids another person younger than 18 years [~~of age~~] old

2258 to engage in conduct in violation of Subsection (1) is guilty of a third degree felony and is  
2259 subject to the penalties under Subsection (2)(a).

2260 Section 40. Section **76-10-1214** is amended to read:

2261 **76-10-1214. Conspiracy an offense -- Punishment.**

2262 (1) (a) A conspiracy of two or more persons to commit any offense proscribed by this  
2263 part is a third degree felony punishable for each separate offense by a minimum mandatory  
2264 fine of not less than \$1,000 and by imprisonment, without suspension of sentence in any way,  
2265 for a term of not less than 60 days.

2266 (b) This subsection supersedes Section [~~77-18-1~~] [77-18-105](#).

2267 (2) (a) If a defendant has already been convicted once under this section, each separate  
2268 further offense is a second degree felony punishable by a minimum mandatory fine of not less  
2269 than \$5,000 and by imprisonment, without suspension of sentence in any way, for a term of not  
2270 less than one year.

2271 (b) This subsection supersedes Section [~~77-18-1~~] [77-18-105](#).

2272 Section 41. Section **76-10-1228** is amended to read:

2273 **76-10-1228. Indecent public displays -- Prohibitions -- Penalty.**

2274 (1) Subject to the affirmative defense in Subsection [76-10-1208](#)(3), a person is guilty  
2275 of a class A misdemeanor who willfully or knowingly:

2276 (a) engages in the business of selling, lending, giving away, showing, advertising for  
2277 sale, or distributing to a minor or has in the person's possession with intent to engage in that  
2278 business or to otherwise offer for sale or commercial distribution to a minor any material with:

2279 (i) a description or depiction of illicit sex or sexual immorality; or

2280 (ii) a nude or partially denuded figure; or

2281 (b) publicly displays at newsstands or any other establishment frequented by minors, or  
2282 where the minors are or may be invited as a part of the general public, any motion picture, or  
2283 any live, taped, or recorded performance, or any still picture or photograph, or any book, pocket  
2284 book, pamphlet, or magazine the cover or content of which:

2285 (i) exploits, is devoted to, or is principally made up of one or more descriptions or  
2286 depictions of illicit sex or sexual immorality; or

2287 (ii) consists of one or more pictures of nude or partially denuded figures.

2288 (2) (a) A violation of this section is punishable by:

2289 (i) a minimum mandatory fine of not less than \$500; and  
 2290 (ii) incarceration, without suspension of sentence in any way, for a term of not less than  
 2291 30 days.

2292 (b) This section supersedes Section ~~[77-18-1]~~ 77-18-105.

2293 Section 42. Section **77-1-3** is amended to read:

2294 **77-1-3. Definitions.**

2295 For the purpose of this act:

2296 (1) "Criminal action" means the proceedings by which a person is charged, accused,  
 2297 and brought to trial for a public offense.

2298 (2) "Indictment" means an accusation in writing presented by a grand jury to the  
 2299 district court charging a person with a public offense.

2300 (3) "Information" means an accusation, in writing, charging a person with a public  
 2301 offense which is presented, signed, and filed in the office of the clerk where the prosecution is  
 2302 commenced ~~[pursuant to Section 77-2-1.1]~~ in accordance with Section 77-2-2.2.

2303 (4) "Magistrate" means a justice or judge of a court of record or not of record or a  
 2304 commissioner of such a court appointed in accordance with Section 78A-5-107, except that the  
 2305 authority of a court commissioner to act as a magistrate shall be limited by rule of the judicial  
 2306 council. The judicial council rules shall not exceed constitutional limitations upon the  
 2307 delegation of judicial authority.

2308 (5) "Risk and needs assessment" means an actuarial tool validated on offenders that  
 2309 determines:

2310 (a) an individual's risk of reoffending; and

2311 (b) the criminal risk factors that, when addressed, reduce the individual's risk of  
 2312 reoffending.

2313 Section 43. Section **77-2-2** is amended to read:

2314 **77-2-2. Definitions.**

2315 ~~[For the purpose of this chapter:]~~

2316 ~~[(1) "Screening" means the process used by a prosecuting attorney to terminate~~  
 2317 ~~investigative action, proceed with prosecution, move to dismiss a prosecution that has been~~  
 2318 ~~commenced, or cause a prosecution to be diverted;]~~

2319 As used in this chapter:

2320 (1) "Commencement of prosecution" means the filing of an information or an  
2321 indictment.

2322 (2) "Diversion" means suspending criminal proceedings [~~prior to~~] before conviction on  
2323 the condition that a defendant agree to:

2324 (a) participate in a rehabilitation program [~~or make~~];

2325 (b) pay restitution to [~~the~~] a victim; or

2326 (c) fulfill some other condition[~~, and~~].

2327 [~~(3) "Commencement of prosecution" means the filing of an information or an~~  
2328 ~~indictment.~~]

2329 (3) "Restitution" means the same as that term is defined in Section 77-38b-102.

2330 (4) "Screening" means the process used by a prosecuting attorney to:

2331 (a) terminate an investigative action;

2332 (b) proceed with prosecution;

2333 (c) move to dismiss a prosecution that has been commenced; or

2334 (d) cause a prosecution to be diverted.

2335 Section 44. Section **77-2-2.1**, which is renumbered from Section 77-2-1 is renumbered  
2336 and amended to read:

2337 [~~77-2-1~~]. **77-2-2.1. Authorization to file information.**

2338 [~~Unless~~] Except as otherwise provided by law, no information may be filed charging the  
2339 commission of any felony or class A misdemeanor unless authorized by a prosecuting attorney.

2340 Section 45. Section **77-2-2.2**, which is renumbered from Section 77-2-1.1 is  
2341 renumbered and amended to read:

2342 [~~77-2-1.1~~]. **77-2-2.2. Signing and filing of information.**

2343 (1) The prosecuting attorney shall sign all informations.

2344 (2) The prosecuting attorney may:

2345 [~~(1)~~] (a) sign the information in the presence of a magistrate; or

2346 [~~(2)~~] (b) present and file the information in the office of the clerk where the  
2347 prosecution is commenced upon the signature of the prosecuting attorney.

2348 Section 46. Section **77-2-2.3**, which is renumbered from Section 77-2-1.2 is  
2349 renumbered and amended to read:

2350 [~~77-2-1.2~~]. **77-2-2.3. Reducing the level of an offense.**

2351 (1) Notwithstanding any other provision of law, a prosecuting attorney may:  
2352 (a) present and file an information charging an individual for an offense under  
2353 Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a  
2354 classification of the offense at one degree lower than the classification that is provided in  
2355 statute if the prosecuting attorney believes that the sentence would be disproportionate to the  
2356 offense because there are special circumstances relating to the offense; or  
2357 (b) subject to the approval of the court, amend an information, as part of a plea  
2358 agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b) through  
2359 (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one  
2360 degree lower than the classification that is provided in statute.

2361 (2) A court may:  
2362 (a) enter a judgment of conviction for an offense filed under Subsection (1) at one  
2363 degree lower than classified in statute; and  
2364 (b) impose a sentence for the offense filed under Subsection (1) at one degree lower  
2365 than classified in statute.

2366 (3) A conviction of an offense at one degree lower than classified in statute under  
2367 Subsection (2) does not affect the requirements for registration of the offense under Title 77,  
2368 Chapter 41, Sex and Kidnap Offender Registry, or Title 77, Chapter 43, Child Abuse Offender  
2369 Registry, if the elements of the offense for which the defendant is convicted are the same as the  
2370 elements of an offense described in Section 77-41-102 or 77-43-102.

2371 (4) This section does not preclude an individual from obtaining and being granted an  
2372 expungement for the individual's record in accordance with Title 77, Chapter 40, Utah  
2373 Expungement Act.

2374 Section 47. Section 77-2-5 is amended to read:  
2375 **77-2-5. Diversion agreement -- Negotiation -- Contents.**  
2376 (1) At any time after the [~~filing of an information or indictment and prior to~~]  
2377 commencement of prosecution and before conviction, the prosecuting attorney may, by written  
2378 agreement with the defendant, filed with the court, and upon approval of the court, divert a  
2379 defendant to a non-criminal diversion program.

2380 (2) A defendant shall be represented by counsel during negotiations for diversion and  
2381 at the time of execution of any diversion agreement unless [~~he shall have~~] the defendant has

2382 knowingly and intelligently waived [his] the defendant's right to counsel.

2383 (3) The defendant has the right to be represented by counsel at any court hearing  
2384 relating to a diversion program.

2385 (4) ~~[Any]~~ (a) A diversion agreement, entered into between ~~[the prosecution and the~~  
2386 ~~defense]~~ the prosecuting attorney and the defendant and approved by a magistrate, shall contain  
2387 a full, detailed statement of the requirements agreed to by the defendant and the reasons for  
2388 diversion.

2389 (b) The diversion agreement described in Subsection (4)(a) shall include an agreement,  
2390 by the parties, for a specific amount of restitution that the defendant will pay, unless the  
2391 prosecuting attorney certifies that:

2392 (i) the prosecuting attorney has consulted with all victims, including the Utah Office  
2393 for Victims of Crime; and

2394 (ii) the defendant does not owe any restitution.

2395 (5) (a) If the court approves a diversion agreement that includes an agreement by the  
2396 parties for the amount of restitution that the defendant will pay, the court shall order the  
2397 defendant to pay restitution in accordance with the terms of the diversion agreement.

2398 (b) The court shall collect, receive, process, and distribute payments for restitution to  
2399 the victim, unless otherwise provided by law or by the diversion agreement.

2400 (6) A decision by a prosecuting attorney not to divert a defendant is not subject to  
2401 judicial review.

2402 ~~[(5)]~~ (7) Diversion programs longer than two years shall not be permitted.

2403 ~~[(6)]~~ (8) A diversion agreement shall not be approved unless the defendant, before a  
2404 magistrate and in the agreement, knowingly and intelligently waives [his] the defendant's  
2405 constitutional right to a speedy trial.

2406 Section 48. Section **77-2a-1** is amended to read:

2407 **77-2a-1. Definitions.**

2408 ~~[For the purposes of this chapter:]~~

2409 As used in this chapter:

2410 (1) "Pecuniary damages" means the same as that term is defined in Section  
2411 [77-38b-102.](#)

2412 ~~[(4)]~~ (2) "Plea in abeyance" means an order by a court, upon motion of the

2413 ~~[prosecution]~~ prosecuting attorney and the defendant, accepting a plea of guilty or of no contest  
2414 from the defendant but not, at that time, entering judgment of conviction against ~~[him]~~ the  
2415 defendant nor imposing sentence upon ~~[him]~~ the defendant on condition that ~~[he]~~ the defendant  
2416 comply with specific conditions as set forth in a plea in abeyance agreement.

2417 ~~[(2)]~~ (3) "Plea in abeyance agreement" means an agreement entered into between the  
2418 ~~[prosecution]~~ prosecuting attorney and the defendant setting forth the specific terms and  
2419 conditions upon which, following acceptance of the agreement by the court, a plea may be held  
2420 in abeyance.

2421 (4) "Restitution" means the same as that term is defined in Section [77-38b-102](#).  
2422 Section 49. Section **77-2a-3** is amended to read:

2423 **77-2a-3. Manner of entry of plea -- Powers of court.**

2424 (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be  
2425 done in full compliance with ~~[the provisions of Rule 11, Utah Rules of Criminal Procedure.]~~  
2426 the Utah Rules of Criminal Procedure, Rule 11.

2427 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance  
2428 agreement may be entered into without a personal appearance before a magistrate.

2429 (2) A plea in abeyance agreement may provide that the court may, upon finding that the  
2430 defendant has successfully completed the terms of the agreement:

2431 (a) reduce the degree of the offense and enter judgment of conviction and impose  
2432 sentence for a lower degree of offense; or

2433 (b) allow withdrawal of defendant's plea and order the dismissal of the case.

2434 (3) (a) Upon finding that a defendant has successfully completed the terms of a plea in  
2435 abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as  
2436 provided in the plea in abeyance agreement or as agreed to by all parties.

2437 (b) Upon sentencing a defendant for any lesser offense ~~[pursuant to]~~ in accordance with  
2438 a plea in abeyance agreement, the court may not invoke Section [76-3-402](#) to further reduce the  
2439 degree of the offense.

2440 (4) The court may require the Department of Corrections to assist in the administration  
2441 of the plea in abeyance agreement as if the defendant were on probation to the court under  
2442 Section ~~[77-18-1]~~ [77-18-105](#).

2443 (5) The terms of a plea in abeyance agreement may include:

2444 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a  
2445 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in  
2446 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a  
2447 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and  
2448 which may not exceed in amount the maximum fine and surcharge which could have been  
2449 imposed upon conviction and sentencing for the same offense;

2450 ~~[(b) an order that the defendant pay restitution to the victims of the defendant's actions~~  
2451 ~~as provided in Title 77, Chapter 38a, Crime Victims Restitution Act;]~~

2452 ~~[(c)]~~ (b) an order that the defendant pay the costs of any remedial or rehabilitative  
2453 program required by the terms of the agreement; and

2454 ~~[(d)]~~ (c) an order that the defendant comply with any other conditions ~~[which]~~ that  
2455 could have been imposed as conditions of probation upon conviction and sentencing for the  
2456 same offense.

2457 (6) (a) The terms of a plea in abeyance shall include an order for a specific amount of  
2458 restitution that the defendant will pay, as agreed to by the defendant and the prosecuting  
2459 attorney, unless the prosecuting attorney certifies that:

2460 (i) the prosecuting attorney has consulted with all victims, including the Utah Office  
2461 for Victims of Crime; and

2462 (ii) the defendant does not owe any restitution.

2463 (b) The court shall collect, receive, process, and distribute payments for restitution to  
2464 the victim, unless otherwise provided by law or by the plea in abeyance agreement.

2465 (c) If the defendant does not successfully complete the terms of the plea in abeyance,  
2466 the court shall enter an order for restitution, in accordance with Title 77, Chapter 38b, Crime  
2467 Victims Restitution Act, upon entering a sentence for the defendant.

2468 ~~[(6)]~~ (7) (a) A court may not hold a plea in abeyance without the consent of both the  
2469 prosecuting attorney and the defendant.

2470 (b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

2471 ~~[(7)]~~ (8) No plea may be held in abeyance in any case involving a sexual offense  
2472 against a victim who is under ~~[the age of 14.]~~ 14 years old.

2473 ~~[(8)]~~ (9) Beginning on July 1, 2008, no plea may be held in abeyance in any case  
2474 involving a driving under the influence violation under Section 41-6a-502.

2475 Section 50. Section 77-7-5 is amended to read:

2476 **77-7-5. Issuance of summons or warrant -- Time and place arrests may be made**  
2477 **-- Contents of warrant or summons -- Responsibility for transporting prisoners -- Court**  
2478 **clerk to dispense costs for transportation.**

2479 (1) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance  
2480 of the accused only upon finding:

2481 (a) probable cause to believe that the person to be arrested has committed a public  
2482 offense; and

2483 (b) under the Utah Rules of Criminal Procedure, and this section that a warrant is  
2484 necessary to:

2485 (i) prevent risk of injury to a person or property;

2486 (ii) secure the appearance of the accused; or

2487 (iii) protect the public safety and welfare of the community or an individual.

2488 (2) If the offense charged is:

2489 (a) a felony, the arrest upon a warrant may be made at any time of the day or night; or

2490 (b) a misdemeanor, the arrest upon a warrant can be made at night only if:

2491 (i) the magistrate has endorsed authorization to do so on the warrant;

2492 (ii) the person to be arrested is upon a public highway, in a public place, or in a place  
2493 open to or accessible to the public; or

2494 (iii) the person to be arrested is encountered by a peace officer in the regular course of  
2495 that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for  
2496 arrest.

2497 (3) For the purpose of Subsection (1):

2498 (a) daytime hours are the hours of 6 a.m. to 10 p.m.; and

2499 (b) nighttime hours are the hours after 10 p.m. and before 6 a.m.

2500 (4) (a) If the magistrate determines that the accused must appear in court, the  
2501 magistrate shall include in the arrest warrant the name of the law enforcement agency in the  
2502 county or municipality with jurisdiction over the offense charged.

2503 (b) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a)  
2504 is responsible for providing inter-county transportation of the defendant, if necessary, from the  
2505 arresting law enforcement agency to the court site.

2506 (ii) The law enforcement agency named on the warrant may contract with another law  
2507 enforcement agency to have a defendant transported.

2508 (c) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a)  
2509 as responsible for transporting the defendant shall provide to the court clerk of the court in  
2510 which the defendant is tried, an affidavit stating that the defendant was transported, indicating  
2511 the law enforcement agency responsible for the transportation, and stating the number of miles  
2512 the defendant was transported.

2513 (ii) The court clerk shall:

2514 (A) account for [~~restitution~~] a cost paid under Subsection ~~[76-3-201(5) for~~  
2515 ~~governmental transportation expenses]~~ 76-3-201(4)(b) for government transportation; and

2516 (B) dispense [~~restitution~~] money collected by the court under Subsection (4)(c)(ii)(A)  
2517 to the law enforcement agency responsible for the transportation of a convicted defendant.

2518 (5) The law enforcement agency identified by the magistrate under Subsection (4)(a)  
2519 shall indicate to the court within 48 hours of the issuance, excluding Saturdays, Sundays, and  
2520 legal holidays if a warrant issued [~~pursuant to~~] in accordance with this section is an extradition  
2521 warrant.

2522 (6) The law enforcement agency identified by the magistrate under Subsection (4)(a)  
2523 shall report any changes to the status of a warrant issued [~~pursuant to~~] in accordance with this  
2524 section to the Bureau of Criminal Identification.

2525 Section 51. Section ~~77-7-21~~ is amended to read:

2526 **77-7-21. Proceeding on citation -- Voluntary forfeiture of bail -- Parent signature**  
2527 **required -- Information, when required.**

2528 (1) (a) A citation filed with the court may, with the consent of the defendant, serve in  
2529 lieu of an information to which the defendant may plead guilty or no contest to the charge or  
2530 charges listed and be sentenced accordingly.

2531 (b) If provided by the uniform fine schedule described in Section ~~76-3-301.5~~, an  
2532 individual may remit the fine and other penalties without a personal appearance before the  
2533 court in any case charging a class B misdemeanor or lower offense, unless the charge is:

2534 (i) a domestic violence offense as defined in Section ~~77-36-1~~;

2535 (ii) a violation of Section ~~41-6a-502~~, driving under the influence of alcohol, drugs, or a  
2536 combination of both or with specified or unsafe blood alcohol concentration;

2537 (iii) a violation of Section [41-6a-517](#), driving with any measurable controlled substance  
2538 in the body;

2539 (iv) a violation of a local ordinance similar to the offenses described in Subsections  
2540 (1)(b)(i) through (iii); or

2541 (v) a violation that appears to:

2542 (A) affect a victim, as defined in Section [~~77-38a-102~~] [77-38b-102](#); or

2543 (B) require restitution, as defined in Section [~~77-38a-102~~] [77-38b-102](#).

2544 (c) The remittal of fines and other penalties shall be entered as a conviction and treated  
2545 the same as if the accused pleaded no contest.

2546 (d) If the person cited is under 18 years [~~of age~~] old, the court shall promptly mail a  
2547 copy or notice of the citation to the address as shown on the citation, to the attention of the  
2548 parent or guardian of the defendant.

2549 (2) If the individual pleads not guilty to the offense charged, further proceedings shall  
2550 be held in accordance with the Rules of Criminal Procedure and all other applicable provisions  
2551 of this code.

2552 Section 52. Section **77-18-101** is enacted to read:

2553 **77-18-101. Title.**

2554 This chapter is known as "The Judgment."

2555 Section 53. Section **77-18-102** is enacted to read:

2556 **77-18-102. Definitions.**

2557 As used in this chapter:

2558 (1) "Assessment" means, except as provided in Section [77-18-104](#), the same as the  
2559 term "risk and needs assessment" in Section [77-1-3](#).

2560 (2) "Board" means the Board of Pardons and Parole.

2561 (3) "Civil accounts receivable" means the same as that term is defined in Section  
2562 [77-32b-102](#).

2563 (4) "Civil judgment of restitution" means the same as that term is defined in Section  
2564 [77-32b-102](#).

2565 (5) "Convicted" means the same as that term is defined in Section [76-3-201](#).

2566 (6) "Criminal accounts receivable" means the same as that term is defined in Section  
2567 [77-32b-102](#).

- 2568 (7) "Default" means the same as that term is defined in Section [77-32b-102](#).
- 2569 (8) "Delinquent" means the same as that term is defined in Section [77-32b-102](#).
- 2570 (9) "Department" means the Department of Corrections created in Section [64-13-2](#).
- 2571 (10) "Payment schedule" means the same as that term is defined in Section
- 2572 [77-32b-102](#).
- 2573 (11) "Restitution" means the same as that term is defined in Section [77-38b-102](#).
- 2574 (12) "Screening" means, except as provided in Section [77-18-104](#), a tool or
- 2575 questionnaire that is designed to determine whether an individual needs further assessment or
- 2576 any additional resource or referral for treatment.
- 2577 (13) "Substance use disorder treatment" means treatment obtained through a substance
- 2578 use disorder program that is licensed by the Office of Licensing within the Department of
- 2579 Human Services.
- 2580 Section 54. Section **77-18-103** is enacted to read:
- 2581 **77-18-103. Presentence investigation report -- Classification of presentence**
- 2582 **investigation report -- Evidence or other information at sentencing.**
- 2583 (1) Before the imposition of a sentence, the court may:
- 2584 (a) upon agreement of the defendant, continue the date for the imposition of the
- 2585 sentence for a reasonable period of time for the purpose of obtaining a presentence
- 2586 investigation report from the department or information from other sources about the
- 2587 defendant; and
- 2588 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the
- 2589 department prepare a presentence investigation report for the defendant.
- 2590 (2) If a presentence investigation report is required under the standards established by
- 2591 the department described in Section [77-18-109](#), the presentence investigation report under
- 2592 Subsection (1) shall include:
- 2593 (a) any impact statement provided by a victim as described in Subsection
- 2594 [77-38b-203\(3\)\(c\)](#);
- 2595 (b) information on restitution as described in Subsection [77-38b-203\(3\)\(a\)](#) and (b);
- 2596 (c) findings from any screening and any assessment of the defendant conducted under
- 2597 Section [77-18-104](#);
- 2598 (d) recommendations for treatment for the defendant; and

2599 (e) the number of days since the commission of the offense that the defendant has spent  
2600 in the custody of the jail and the number of days, if any, the defendant was released to a  
2601 supervised release program or an alternative incarceration program under Section [17-22-5.5](#).

2602 (3) The department shall provide the presentence investigation report to the defendant's  
2603 attorney, or the defendant if the defendant is not represented by counsel, the prosecuting  
2604 attorney, and the court for review within three working days before the day on which the  
2605 defendant is sentenced.

2606 (4) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is  
2607 not resolved by the parties and the department before sentencing:

2608 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing;  
2609 and

2610 (B) the court may grant an additional 10 working days after the day on which the  
2611 alleged inaccuracy is brought to the court's attention to allow the parties and the department to  
2612 resolve the alleged inaccuracy in the presentence investigation report.

2613 (ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the  
2614 alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is  
2615 an inaccuracy in the presentence investigation report, the court shall:

2616 (A) enter a written finding as to the relevance and accuracy of the challenged portion of  
2617 the presentence investigation report; and

2618 (B) provide the written finding to the Division of Adult Probation and Parole.

2619 (b) The Division of Adult Probation and Parole shall attach the written finding to the  
2620 presentence investigation report as an addendum.

2621 (c) If a party fails to challenge the accuracy of the presentence investigation report at  
2622 the time of sentencing, the matter shall be considered waived.

2623 (5) The contents of the presentence investigation report are protected and not available  
2624 except by court order for purposes of sentencing as provided by rule of the Judicial Council or  
2625 for use by the department.

2626 (6) (a) A presentence investigation report is classified as protected in accordance with  
2627 Title 63G, Chapter 2, Government Records Access and Management Act.

2628 (b) Notwithstanding Sections [63G-2-403](#) and [63G-2-404](#), the State Records Committee  
2629 may not order the disclosure of a presentence investigation report.

2630 (7) Except for disclosure at the time of sentencing in accordance with this section, the  
2631 department may disclose a presentence investigation only when:

2632 (a) ordered by the court in accordance with Subsection 63G-2-202(7);  
2633 (b) requested by a law enforcement agency or other agency approved by the department  
2634 for purposes of supervision, confinement, and treatment of a defendant;  
2635 (c) requested by the board;  
2636 (d) requested by the subject of the presentence investigation report or the subject's  
2637 authorized representative;  
2638 (e) requested by the victim of the offense discussed in the presentence investigation  
2639 report, or the victim's authorized representative, if the disclosure is only information relating  
2640 to:

2641 (i) statements or materials provided by the victim;  
2642 (ii) the circumstances of the offense, including statements by the defendant; or  
2643 (iii) the impact of the offense on the victim or the victim's household; or  
2644 (f) requested by a sex offender treatment provider:

2645 (i) who is certified to provide treatment under the certification program established in  
2646 Subsection 64-13-25(3);  
2647 (ii) who is providing, at the time of the request, sex offender treatment to the offender  
2648 who is the subject of the presentence investigation report; and  
2649 (iii) who provides written assurance to the department that the report:

2650 (A) is necessary for the treatment of the defendant;  
2651 (B) will be used solely for the treatment of the defendant; and  
2652 (C) will not be disclosed to an individual or entity other than the defendant.

2653 (8) (a) At the time of sentence, the court shall receive any testimony, evidence, or  
2654 information that the defendant or the prosecuting attorney desires to present concerning the  
2655 appropriate sentence.

2656 (b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in  
2657 open court on record and in the presence of the defendant.

2658 Section 55. Section **77-18-104**, which is renumbered from Section 77-18-1.1 is  
2659 renumbered and amended to read:

2660 **[~~77-18-1.1~~]. 77-18-104. Screening, assessment, and treatment.**

2661 (1) As used in this section:

2662 (a) "Assessment" has the same meaning as in Section [41-6a-501](#).

2663 ~~[(b) "Convicted" means:]~~

2664 ~~[(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental~~  
2665 ~~illness, or no contest; and]~~

2666 ~~[(ii) conviction of any crime or offense.]~~

2667 ~~[(c)]~~ (b) "Screening" has the same meaning as in Section [41-6a-501](#).

2668 ~~[(d) "Substance use disorder treatment" means treatment obtained through a substance~~  
2669 ~~use disorder program that is licensed by the Office of Licensing within the Department of~~  
2670 ~~Human Services.]~~

2671 ~~[(2) On or after July 1, 2009, the courts of the judicial districts where the Drug-Related~~  
2672 ~~Offenses Reform Act under Section [63M-7-305](#) is implemented shall, in coordination with the~~  
2673 ~~local substance abuse authority regarding available resources.]~~

2674 (2) In coordination with the local substance abuse authority regarding available  
2675 resources, a court in which the Drug-Related Offenses Reform Act under Section [63M-7-305](#) is  
2676 implemented shall order [convicted persons] a convicted defendant, who is determined to be  
2677 eligible in accordance with the implementation plan developed by the Utah Substance Use and  
2678 Mental Health Advisory Council under Section [63M-7-305](#), to:

2679 (a) participate in a screening ~~[prior to]~~ before sentencing;

2680 (b) participate in an assessment ~~[prior to]~~ before sentencing if the screening indicates  
2681 an assessment to be appropriate; and

2682 (c) participate in substance use disorder treatment if:

2683 (i) the assessment indicates treatment to be appropriate;

2684 (ii) the court finds treatment to be appropriate for the convicted ~~[person]~~ defendant;

2685 and

2686 (iii) the court finds the convicted ~~[person]~~ defendant to be an appropriate candidate for  
2687 community-based supervision.

2688 (3) The findings from any screening and any assessment conducted under this section  
2689 shall be part of the presentence investigation report submitted to the court ~~[before sentencing of~~  
2690 ~~the convicted person]~~ under Section [77-18-103](#).

2691 (4) Money appropriated by the Legislature to assist in the funding of the screening,

2692 assessment, substance use disorder treatment, and supervision provided under this section is  
2693 not subject to any requirement regarding matching funds from a state or local governmental  
2694 entity.

2695 Section 56. Section **77-18-105** is enacted to read:

2696 **77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation --**  
2697 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**  
2698 **supervision for payments on criminal accounts receivable.**

2699 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in  
2700 abeyance agreement, the court may hold the plea in abeyance:

2701 (a) in accordance with Chapter 2a, Pleas in Abeyance; and

2702 (b) under the terms of the plea in abeyance agreement.

2703 (2) If a defendant is convicted, the court:

2704 (a) shall impose a sentence in accordance with Section [76-3-201](#); and

2705 (b) may suspend the execution of the sentence and place the defendant:

2706 (i) on probation under the supervision of the department, except as provided in  
2707 Subsection (5);

2708 (ii) on probation under the supervision of an agency of a local government or a private  
2709 organization; or

2710 (iii) on court probation under the jurisdiction of the sentencing court.

2711 (3) (a) The legal custody of all probationers under the supervision of the department is  
2712 with the department.

2713 (b) The legal custody of all probationers under the jurisdiction of the sentencing court  
2714 is vested as ordered by the court.

2715 (c) The court has continuing jurisdiction over all probationers.

2716 (4) (a) Court probation may include an administrative level of services, including  
2717 notification to the sentencing court of scheduled periodic reviews of the probationer's  
2718 compliance with conditions.

2719 (b) Supervised probation services provided by the department, an agency of a local  
2720 government, or a private organization shall specifically address the defendant's risk of  
2721 reoffending as identified by a screening or an assessment.

2722 (5) A court may not order the department to supervise the probation of an individual

2723 who is convicted of a class B or C misdemeanor or an infraction.

2724 (6) (a) If a defendant is placed on probation, the court may order the defendant as a  
2725 condition of the defendant's probation:

2726 (i) to provide for the support of persons for whose support the defendant is legally  
2727 liable;

2728 (ii) to participate in available treatment programs, including any treatment program in  
2729 which the defendant is currently participating if the program is acceptable to the court;

2730 (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and  
2731 Mental Health for treatment at the Utah State Hospital in accordance with Section [77-18-106](#);

2732 (iv) if the defendant is on probation for a felony offense, to serve a period of time as an  
2733 initial condition of probation that does not exceed one year in a county jail designated by the  
2734 department, after considering any recommendation by the court as to which jail the court finds  
2735 most appropriate;

2736 (v) to serve a term of home confinement in accordance with Section [77-18-107](#);

2737 (vi) to participate in compensatory service programs, including the compensatory  
2738 service program described in Section [76-6-107.1](#);

2739 (vii) to pay for the costs of investigation, probation, or treatment services;

2740 (viii) to pay a criminal accounts receivable established for the defendant under Section  
2741 [77-32b-103](#); or

2742 (ix) to comply with other terms and conditions the court considers appropriate to  
2743 ensure public safety or increase a defendant's likelihood of success on probation.

2744 (b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a  
2745 defendant to include a period of time that is served in a county jail immediately before the  
2746 termination of probation as long as that period of time does not exceed one year.

2747 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation  
2748 violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply  
2749 to the period of time that the court orders the defendant to serve in a county jail under this  
2750 Subsection (6)(b)(ii).

2751 (7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on  
2752 probation after December 31, 2018:

2753 (i) may not exceed the individual's maximum sentence;

2754 (ii) shall be for a period of time that is in accordance with the supervision length  
2755 guidelines established by the Utah Sentencing Commission under Section [63M-7-404](#), to the  
2756 extent the guidelines are consistent with the requirements of the law; and

2757 (iii) shall be terminated in accordance with the supervision length guidelines  
2758 established by the Utah Sentencing Commission under Section [63M-7-404](#), to the extent the  
2759 guidelines are consistent with the requirements of the law.

2760 (b) Probation of an individual placed on probation after December 31, 2018, whose  
2761 maximum sentence is one year or less, may not exceed 36 months.

2762 (c) Probation of an individual placed on probation on or after October 1, 2015, but  
2763 before January 1, 2019, may be terminated at any time at the discretion of the court or upon  
2764 completion without violation of 36 months probation in felony or class A misdemeanor cases,  
2765 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance  
2766 with Section [64-13-21](#) regarding earned credits.

2767 (d) This Subsection (7) does not apply to the probation of an individual convicted of an  
2768 offense for criminal nonsupport under Section [76-7-201](#).

2769 (8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal  
2770 accounts receivable for the defendant upon termination of the probation period for the  
2771 defendant under Subsection (7), the court may require the defendant to continue to make  
2772 payments towards the criminal accounts receivable in accordance with the payment schedule  
2773 established by the court under Section [77-32b-103](#).

2774 (b) A court may not require the defendant to make payments as described in Subsection  
2775 (8)(a) beyond the expiration of the defendant's sentence.

2776 (c) If the court requires a defendant to continue to pay in accordance with the payment  
2777 schedule for the criminal accounts receivable under this Subsection (8) and the defendant  
2778 defaults on the criminal accounts receivable, the court shall proceed with an order for a civil  
2779 judgment of restitution and a civil accounts receivable for the defendant as described in Section  
2780 [77-18-114](#).

2781 (d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's  
2782 own motion, the court may require a defendant to show cause as to why the defendant's failure  
2783 to pay in accordance with the payment schedule should not be treated as contempt of court.

2784 (ii) A court may hold a defendant in contempt for failure to make payments for a

2785 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

2786 (e) This Subsection (8) does not apply to the probation of an individual convicted of an  
2787 offense for criminal nonsupport under Section [76-7-201](#).

2788 Section 57. Section **77-18-106** is enacted to read:

2789 **77-18-106. Treatment at the Utah State Hospital -- Condition of probation or stay**  
2790 **of sentence.**

2791 The court may order as a condition of probation, or a stay of sentence, that the  
2792 defendant be voluntarily admitted to the custody of the Division of Substance Abuse and  
2793 Mental Health for treatment at the Utah State Hospital only if the superintendent of the Utah  
2794 State Hospital, or the superintendent's designee, certifies to the court that:

2795 (1) the defendant is appropriate for, and can benefit from, treatment at the Utah State  
2796 Hospital;

2797 (2) there is space at the Utah State Hospital for treatment of the defendant; and

2798 (3) individuals described in Subsection [62A-15-610\(2\)\(g\)](#) are receiving priority for  
2799 treatment over the defendant.

2800 Section 58. Section **77-18-107** is enacted to read:

2801 **77-18-107. Home confinement -- Electronic monitoring for home confinement.**

2802 (1) The court may order home confinement as a condition of probation under the  
2803 supervision of the department, except as provided in Sections [76-3-406](#) and [76-5-406.5](#).

2804 (2) The department shall establish procedures and standards for home confinement for  
2805 all defendants supervised by the department for home confinement.

2806 (3) If the court places the defendant on probation and orders the defendant to  
2807 participate in home confinement under Subsection (1), the court may order the defendant to  
2808 participate in home confinement through the use of electronic monitoring until further order of  
2809 the court.

2810 (4) The electronic monitoring of a defendant shall alert the department and the  
2811 appropriate law enforcement agency of the defendant's whereabouts.

2812 (5) An electronic monitoring device shall be used under conditions that require:

2813 (a) the defendant to wear an electronic monitoring device at all times; and

2814 (b) the device be placed in the home of the defendant to monitor the defendant's  
2815 compliance with the court's order.

2816 (6) If a court orders a defendant to participate in home confinement through electronic  
2817 monitoring as a condition of probation under Subsection (3), the court shall:

2818 (a) place the defendant on probation under the supervision of the department;

2819 (b) order the department to place an electronic monitoring device on the defendant and  
2820 install electronic monitoring equipment in the residence of the defendant; and

2821 (c) order the defendant to pay the costs associated with home confinement to the  
2822 department or the program provider.

2823 (7) The department shall pay the costs of home confinement through electronic  
2824 monitoring only for an individual who is determined to be indigent by the court.

2825 (8) The department may provide the electronic monitoring described in this section  
2826 directly or by contract with a private provider.

2827 Section 59. Section **77-18-108** is enacted to read:

2828 **77-18-108. Termination, revocation, modification, or extension of probation --**  
2829 **Violation of probation -- Hearing on violation.**

2830 (1) (a) The department shall notify the court and the prosecuting attorney, in writing:

2831 (i) when the department is requesting termination of supervision for a defendant; or

2832 (ii) before a defendant's supervision will be terminated by law.

2833 (b) The notification under this Subsection (1) shall include a probation progress report.

2834 (c) If a defendant's probation is being terminated, and the defendant's criminal accounts  
2835 receivable has an unpaid balance or there is any outstanding debt with the department, the  
2836 department shall notify the Office of State Debt Collection that the defendant's criminal  
2837 accounts receivable has an unpaid balance or there is an outstanding debt with the department.

2838 (2) (a) The court may modify the defendant's probation in accordance with the  
2839 supervision length guidelines and the graduated sanctions and incentives developed by the Utah  
2840 Sentencing Commission under Section [63M-7-404](#).

2841 (b) The court may not:

2842 (i) extend the length of a defendant's probation, except upon:

2843 (A) waiver of a hearing by the defendant; or

2844 (B) a hearing and a finding by the court that the defendant has violated the terms of  
2845 probation;

2846 (ii) revoke a defendant's probation, except upon a hearing and a finding by the court

2847 that the terms of probation have been violated; or

2848 (iii) terminate a defendant's probation before expiration of the probation period until  
2849 the court enters a finding of whether the defendant owes restitution under Section [77-38b-205](#).

2850 (3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in  
2851 substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act,  
2852 alleging with particularity facts asserted to constitute violation of the terms of a defendant's  
2853 probation, the court shall determine if the affidavit or unsworn written declaration establishes  
2854 probable cause to believe that revocation, modification, or extension of the defendant's  
2855 probation is justified.

2856 (b) (i) If the court determines there is probable cause, the court shall order that the  
2857 defendant be served with:

2858 (A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written  
2859 declaration; and

2860 (B) an order to show cause as to why the defendant's probation should not be revoked,  
2861 modified, or extended.

2862 (ii) The order under Subsection (3)(b)(i)(B) shall:

2863 (A) be served upon the defendant at least five days before the day on which the hearing  
2864 is held;

2865 (B) specify the time and place of the hearing; and

2866 (C) inform the defendant of the right to be represented by counsel at the hearing, the  
2867 right to have counsel appointed if the defendant is indigent, and the right to present evidence at  
2868 the hearing.

2869 (iii) The defendant shall show good cause for a continuance of the hearing.

2870 (c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or  
2871 unsworn written declaration.

2872 (d) (i) If the defendant denies the allegations of the affidavit or unsworn written  
2873 declaration, the prosecuting attorney shall present evidence on the allegations.

2874 (ii) If the affidavit, or unsworn written declaration, alleges that a defendant is  
2875 delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall  
2876 present evidence to establish, by a preponderance of the evidence, that the defendant:

2877 (A) was aware of the defendant's obligation to pay the balance of the criminal accounts

2878 receivable;

2879 (B) failed to pay on the balance of the criminal accounts receivable as ordered by the  
2880 court; and

2881 (C) had the ability to make a payment on the balance of the criminal accounts  
2882 receivable if the defendant opposes an order to show cause, in writing, and presents evidence  
2883 that the defendant was unable to make a payment on the balance of the criminal accounts  
2884 receivable.

2885 (e) The persons who have given adverse information on which the allegations are  
2886 based shall be presented as witnesses subject to questioning by the defendant, unless the court  
2887 for good cause otherwise orders.

2888 (f) At the hearing, the defendant may:

2889 (i) call witnesses;

2890 (ii) appear and speak in the defendant's own behalf; and

2891 (iii) present evidence.

2892 (g) (i) After the hearing, the court shall make findings of fact.

2893 (ii) Upon a finding that the defendant violated the terms of the defendant's probation,  
2894 the court may order the defendant's probation terminated, revoked, modified, continued, or  
2895 reinstated for all or a portion of the original term of probation.

2896 (4) (a) (i) Except as provided in Subsection 77-18-105(7), the court may not require a  
2897 defendant to remain on probation for a period of time that exceeds the length of the defendant's  
2898 maximum sentence.

2899 (ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is  
2900 revoked and later reinstated, the total time of all periods of probation that the defendant serves,  
2901 in relation to the same sentence, may not exceed the defendant's maximum sentence.

2902 (b) If a period of incarceration is imposed for a violation of the defendant's probation,  
2903 the defendant shall be sentenced within the guidelines established by the Utah Sentencing  
2904 Commission in accordance with Subsection 63M-7-404(4), unless the court determines that:

2905 (i) the defendant needs substance abuse or mental health treatment, as determined by a  
2906 screening and an assessment, that warrants treatment services that are immediately available in  
2907 the community; or

2908 (ii) the sentence previously imposed shall be executed.

2909 (c) If the defendant had, before the imposition of a term of incarceration or the  
2910 execution of the previously imposed sentence under this section, served time in jail as a term of  
2911 probation or due to a violation of probation, the time that the defendant served in jail  
2912 constitutes service of time toward the sentence previously imposed.

2913 (5) (a) Any time served by a defendant:

2914 (i) outside of confinement after having been charged with a probation violation, and  
2915 before a hearing to revoke probation, does not constitute service of time toward the total  
2916 probation term, unless the defendant is exonerated at a hearing to revoke the defendant's  
2917 probation;

2918 (ii) in confinement awaiting a hearing or a decision concerning revocation of the  
2919 defendant's probation does not constitute service of time toward the total probation term, unless  
2920 the defendant is exonerated at the hearing to revoke probation; or

2921 (iii) in confinement awaiting a hearing or a decision concerning revocation of the  
2922 defendant's probation constitutes service of time toward a term of incarceration imposed as a  
2923 result of the revocation of probation or a graduated sanction imposed under the guidelines  
2924 established by the Utah Sentencing Commission in accordance with Section [63M-7-404](#).

2925 (b) The running of the probation period is tolled upon:

2926 (i) the filing of a report with the court alleging a violation of the terms of the  
2927 defendant's probation; or

2928 (ii) the issuance of an order or a warrant under Subsection (3).

2929 Section 60. Section **77-18-109** is enacted to read:

2930 **77-18-109. Standards for supervision and presentence investigation.**

2931 (1) The department shall establish supervision and presentence investigation standards  
2932 for all individuals referred to the department based on:

2933 (a) the type of offense;

2934 (b) the results of a screening and an assessment;

2935 (c) the demand for services;

2936 (d) the availability of agency resources;

2937 (e) public safety; and

2938 (f) other criteria established by the department to determine what level of services shall  
2939 be provided.

2940           (2) The department shall submit proposed supervision and presentence investigation  
2941 standards annually to the Judicial Council and the board for review and comment before the  
2942 department adopts the standards.

2943           (3) The Judicial Council and the department shall establish procedures to implement  
2944 the supervision and presentence investigation standards.

2945           (4) The Judicial Council and the department shall annually consider modifications to  
2946 the standards based upon criteria in Subsection (1) and other criteria as the Judicial Council  
2947 and the department consider appropriate.

2948           (5) The Judicial Council and the department shall:

2949           (a) annually prepare an impact report; and

2950           (b) submit the impact report to the appropriate legislative appropriations  
2951 subcommittee.

2952           Section 61. Section **77-18-110**, which is renumbered from Section 77-18-3 is  
2953 renumbered and amended to read:

2954           ~~[77-18-3].~~    **77-18-110. Disposition of fines.**

2955           ~~[Fines]~~ A fine imposed by the district court shall be paid ~~[as provided in]~~ in accordance  
2956 with Section **78A-5-110**.

2957           Section 62. Section **77-18-111**, which is renumbered from Section 77-18-4 is  
2958 renumbered and amended to read:

2959           ~~[77-18-4].~~    **77-18-111. Sentence -- Term -- Construction.**

2960           (1) ~~[Whenever a person]~~ If an individual is convicted of a crime and the judgment  
2961 provides for a commitment to the state prison, the court shall not fix a definite term of  
2962 imprisonment unless otherwise provided by law.

2963           (2) The sentence and judgment of imprisonment shall be for an indeterminate term of  
2964 not less than the minimum and not to exceed the maximum term provided by law for the  
2965 particular crime.

2966           (3) Except as otherwise expressly provided by law, every sentence, regardless of ~~[its]~~  
2967 the sentence's form or terms, which purports to be for a shorter or different period of time, shall  
2968 be construed to be a sentence for the term between the minimum and maximum periods of time  
2969 provided by law and shall continue until the maximum period has been reached unless sooner  
2970 terminated or commuted by authority of the ~~[Board of Pardons and Parole]~~ board.

2971 Section 63. Section **77-18-112**, which is renumbered from Section 77-18-5 is  
2972 renumbered and amended to read:

2973 ~~[77-18-5].~~ **77-18-112. Reports by courts and prosecuting attorneys to Board of**  
2974 **Pardons and Parole.**

2975 In cases where an indeterminate sentence is imposed, the [judge] court and prosecuting  
2976 attorney may, within 30 days, mail a statement to the [~~Board of Pardons and Parole~~] board  
2977 setting forth the term for which the prisoner ought to be imprisoned together with any  
2978 information which might aid the board in passing on the application for termination or  
2979 commutation of the sentence or for parole or pardon.

2980 Section 64. Section **77-18-113**, which is renumbered from Section 77-18-5.5 is  
2981 renumbered and amended to read:

2982 ~~[77-18-5.5].~~ **77-18-113. Judgment of death -- Method is lethal injection --**  
2983 **Exceptions for use of firing squad.**

2984 (1) (a) When a defendant is convicted of a capital felony and the judgment of death has  
2985 been imposed, lethal intravenous injection is the method of execution.

2986 (b) Subsection (1)(a) applies to any defendant sentenced to death on or after May 3,  
2987 2004, except under Subsections (2), (3), and (4).

2988 (2) (a) If a court holds that a defendant has a right to be executed by a firing squad, the  
2989 method of execution for that defendant shall be a firing squad.

2990 (b) This Subsection (2) applies to any defendant whose right to be executed by a firing  
2991 squad is preserved by that judgment.

2992 (3) (a) If a court holds that execution by lethal injection is unconstitutional on its face,  
2993 the method of execution shall be a firing squad.

2994 (b) If a court holds that execution by lethal injection is unconstitutional as applied, the  
2995 method of execution for that defendant shall be a firing squad.

2996 (4) The method of execution for the defendant is the firing squad if the sentencing  
2997 court determines the state is unable to lawfully obtain the substance or substances necessary to  
2998 conduct an execution by lethal intravenous injection 30 or more days [~~prior to~~] before the date  
2999 specified in the warrant issued upon a judgment of death under Section **77-19-6**.

3000 Section 65. Section **77-18-114** is enacted to read:

3001 **77-18-114. Unpaid balance at termination of sentence -- Past due account -- Notice**

3002 -- Account or judgment paid in full -- Effect of civil accounts receivable and civil  
3003 judgment of restitution.

3004 (1) When a defendant's sentence is terminated by law or by the decision of the court or  
3005 the board:

3006 (a) the board shall provide an accounting of the unpaid balance of the defendant's  
3007 criminal accounts receivable to the court if the defendant was on parole or incarcerated at the  
3008 time of termination; and

3009 (b) within 90 days after the day on which a defendant's sentence is terminated, the  
3010 court shall:

3011 (i) enter an order for a civil accounts receivable and a civil judgment of restitution for a  
3012 defendant on the civil judgment docket;

3013 (ii) transfer the responsibility of collecting the civil accounts receivable and the civil  
3014 judgment of restitution to the Office of State Debt Collection; and

3015 (iii) identify in the order under this Subsection (1):

3016 (A) the Office of State Debt Collection as a judgment creditor for the civil accounts  
3017 receivable and the civil judgment of restitution; and

3018 (B) the victim as a judgment creditor for the civil judgment of restitution.

3019 (2) If a criminal accounts receivable for the defendant is more than 90 days past due  
3020 and the court has ordered that a defendant does not owe restitution to any victim, or the time  
3021 period in Subsection 77-38b-205(5) has passed and the court has not ordered restitution, the  
3022 court may:

3023 (a) enter an order for a civil accounts receivable for the defendant on the civil judgment  
3024 docket;

3025 (b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as  
3026 a judgment creditor for the civil accounts receivable; and

3027 (c) transfer the responsibility of collecting the civil accounts receivable to the Office of  
3028 State Debt Collection.

3029 (3) An order for a criminal accounts receivable is no longer in effect after the court  
3030 enters an order for a civil accounts receivable or a civil judgment of restitution under  
3031 Subsection (1) or (2).

3032 (4) The court shall provide notice to the Office of State Debt Collection and the

3033 prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the  
3034 civil judgment of restitution.

3035 (5) The Office of State Debt Collection shall:

3036 (a) notify the court when a civil judgment of restitution or a civil accounts receivable is  
3037 satisfied; and

3038 (b) provide the court with an accounting of any distribution made by the Office of State  
3039 Collection for the civil accounts receivable and the civil judgment of restitution.

3040 (6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil  
3041 accounts receivable on the civil judgment docket, or when restitution is recorded as an order  
3042 for a civil judgment of restitution on the civil judgment docket, the order:

3043 (a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

3044 (b) may be collected by any means authorized by law for the collection of a civil  
3045 judgment.

3046 (7) A criminal account receivable, a civil accounts receivable, and a civil judgment of  
3047 restitution are not subject to the civil statutes of limitation and expire only upon payment in  
3048 full.

3049 (8) (a) If a defendant asserts that a payment was made to a victim or third party for a  
3050 civil judgment of restitution, or enters into any other transaction that does not involve the  
3051 Office of State Debt Collection, and the defendant asserts that the payment results in a credit  
3052 towards the civil judgment of restitution for the defendant:

3053 (i) the defendant shall provide notice to the Office of State Debt Collection and the  
3054 prosecuting attorney within 30 days after the day on which the payment or other transaction is  
3055 made; and

3056 (ii) the payment may only be credited towards the principal of the civil judgment of  
3057 restitution and does not affect any other amount owed to the Office of State Debt Collection  
3058 under Section [63A-3-502](#).

3059 (b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party  
3060 from providing notice of a payment towards a civil judgment of restitution to the Office of  
3061 State Debt Collection.

3062 Section 66. Section **77-18-115**, which is renumbered from Section 77-18-6.5 is  
3063 renumbered and amended to read:

3064 ~~[77-18-6.5].~~ 77-18-115. **Liability of rescued person for costs of emergency**  
3065 **response.**

3066 (1) Any person who violates Section 76-6-206.1 and whose conduct required  
3067 emergency care, rescue, assistance, or recovery services at the scene of an abandoned or  
3068 inactive mine may be charged with the expenses incurred in meeting the emergency.

3069 (2) (a) The court's order shall be a judgment [~~which~~] that orders the payment of  
3070 reimbursement to any public agency or private body that incurred the expenses.

3071 (b) The judgment shall constitute a lien when recorded in the judgment docket and  
3072 shall have the same effect and is subject to the same rules as a judgment for money in a civil  
3073 action.

3074 (3) The liability imposed under this section is in addition to and not in limitation of any  
3075 other liability that may be imposed.

3076 Section 67. Section ~~77-18-116~~, which is renumbered from Section 77-18-7 is  
3077 renumbered and amended to read:

3078 ~~[77-18-7].~~ 77-18-116. **Costs imposed on defendant -- Restrictions.**

3079 Unless specifically authorized by statute, a defendant shall not be required to pay court  
3080 costs in a criminal case [~~either as~~] as:

3081 (1) a part of a sentence; or [~~as~~]

3082 (2) a condition of probation or dismissal.

3083 Section 68. Section ~~77-18-117~~, which is renumbered from Section 77-18-8 is  
3084 renumbered and amended to read:

3085 ~~[77-18-8].~~ 77-18-117. **Fine not paid -- Commitment.**

3086 (1) When a defendant is sentenced to pay a fine in addition to a jail or a prison sentence  
3087 and the judgment is that the jail or prison sentence be suspended upon payment of the fine, the  
3088 service of the jail or prison sentence shall satisfy the judgment.

3089 (2) If a defendant fails to pay the fine and [~~hereafter~~] the court finds that the defendant  
3090 failed to make a good faith effort to pay the fine, the court may, after a hearing, order the  
3091 execution of the suspended jail or prison sentence.

3092 (3) If a defendant is sentenced to pay a fine only, or is sentenced to jail or prison and a  
3093 fine, with neither suspended, [~~he shall not~~] the defendant may not later be committed to jail for  
3094 failure to pay the fine.

3095 Section 69. Section **77-18-118** is enacted to read:

3096 **77-18-118. Continuing jurisdiction of a sentencing court.**

3097 (1) A sentencing court shall retain jurisdiction over a defendant's criminal case:

3098 (a) if the defendant is on probation as described in Subsection [77-18-105\(3\)\(c\)](#);

3099 (b) if the defendant is on probation and the probation period has terminated under

3100 Subsection [77-18-105\(7\)](#), to require the defendant to continue to make payments towards a  
3101 criminal accounts receivable until the defendant's sentence expires;

3102 (c) within the time periods described in Subsection [77-38b-205\(5\)](#), to enter or modify  
3103 an order for a criminal accounts receivable in accordance with Section [77-32b-103](#);

3104 (d) within the time periods described in Subsection [77-38b-205\(5\)](#), to enter or modify  
3105 an order for restitution in accordance with Section [77-38b-205](#);

3106 (e) until a defendant's sentence is terminated, to correct an error for a criminal accounts  
3107 receivable in accordance with Subsection [77-32b-105\(1\)\(a\)](#);

3108 (f) until a defendant's sentence is terminated, to modify a payment schedule for a  
3109 criminal accounts receivable in accordance with Subsection [77-32b-105\(1\)\(b\)](#);

3110 (g) if a defendant files a petition for remittance under Subsection [77-32b-105\(1\)\(c\)](#)  
3111 before the defendant's sentence is terminated, for 90 days from the day on which the petition is  
3112 filed to determine whether to remit, in whole or in part, the defendant's criminal accounts  
3113 receivable;

3114 (h) if a defendant files a petition for remittance under Subsection [77-32b-106\(1\)](#) within  
3115 90 days from the day on which the defendant's sentence is terminated, to determine whether to  
3116 remit, in whole or in part, the defendant's criminal accounts receivable; and

3117 (i) to enter an order for a civil accounts receivable and a civil judgment of restitution in  
3118 accordance with Section [77-18-114](#).

3119 (2) This section does not prevent a court from exercising jurisdiction over:

3120 (a) a contempt proceeding for a defendant under Title 78B, Chapter 6, Part 3,

3121 Contempt; or

3122 (b) enforcement of a civil accounts receivable or a civil judgment of restitution.

3123 Section 70. Section **77-19-10** is amended to read:

3124 **77-19-10. Judgment of death -- Location and procedures for execution.**

3125 (1) The executive director of the Department of Corrections or a designee shall ensure

3126 that the method of judgment of death specified in the warrant or as required under Section  
3127 ~~[77-18-5.5]~~ [77-18-113](#) is carried out at a secure correctional facility operated by the department  
3128 and at an hour determined by the department on the date specified in the warrant.

3129 (2) When the judgment of death is to be carried out by lethal intravenous injection, the  
3130 executive director of the department or a designee shall select two or more persons trained in  
3131 accordance with accepted medical practices to administer intravenous injections, who shall  
3132 each administer a continuous intravenous injection, one of which shall be of a lethal quantity  
3133 of:

3134 (a) sodium thiopental; or

3135 (b) other equally or more effective substance sufficient to cause death.

3136 (3) If the judgment of death is to be carried out by firing squad under Subsection  
3137 ~~[77-18-5.5]~~ [77-18-113](#)(2), (3), or (4) the executive director of the department or a designee  
3138 shall select a five-person firing squad of peace officers.

3139 (4) Compensation for persons administering intravenous injections and for members of  
3140 a firing squad under Subsection ~~[77-18-5.5]~~ [77-18-113](#)(2), (3), or (4) shall be in an amount  
3141 determined by the director of the Division of Finance.

3142 (5) Death under this section shall be certified by a physician.

3143 (6) The department shall adopt and enforce rules governing procedures for the  
3144 execution of judgments of death.

3145 Section 71. Section ~~77-20-4~~ is amended to read:

3146 **77-20-4. Bail to be posted in cash, by credit or debit card, or by written**  
3147 **undertaking -- Specific monetary bail methods.**

3148 (1) (a) Except as provided in Subsection (2), the judge or magistrate shall set bail at a  
3149 single amount per case or charge.

3150 (b) Subject to Subsection (2), a defendant may choose to post the amount described in  
3151 Subsection (1)(a) by any of the following methods:

3152 (i) in cash;

3153 (ii) by written undertaking with sureties;

3154 (iii) by written undertaking without sureties, at the discretion of the judge or  
3155 magistrate; or

3156 (iv) by credit or debit card, at the discretion of the judge or bail commissioner.

3157 (2) A judge or magistrate may limit a defendant to a specific method of posting  
3158 monetary bail described in Subsection (1)(b)(i), (ii), (iii), or (iv):

3159 (a) if, after charges are filed, the defendant fails to appear in the case on a bond and the  
3160 case involves a violent offense;

3161 (b) in order to allow the defendant to voluntarily forfeit monetary bail in accordance  
3162 with Section [77-7-21](#) and the offense with which the defendant is charged is listed in the shared  
3163 master offense table as one for which an appearance is not mandatory;

3164 (c) if the defendant has failed to respond to a citation or summons and the offense with  
3165 which the defendant is charged is listed in the shared master offense table as one for which an  
3166 appearance is not mandatory;

3167 (d) if a warrant is issued for the defendant solely for failure to pay a ~~criminal judgment~~  
3168 ~~account receivable, as defined in Section [77-32a-101](#)~~ criminal accounts receivable, as defined  
3169 in Section [77-32b-102](#), and the defendant's monetary bail is limited to the amount owed; or

3170 (e) if a court has entered a judgment of bond forfeiture under Section [77-20b-104](#) in  
3171 any case involving the defendant.

3172 (3) Monetary bail may not be accepted without receiving in writing at the time the  
3173 monetary bail is posted the current mailing address, telephone number, and email address of  
3174 the surety.

3175 (4) Monetary bail paid by debit or credit card, less the fee charged by the financial  
3176 institution, shall be tendered to the courts.

3177 (5) Monetary bail refunded by the court may be refunded by credit to the debit or credit  
3178 card, or cash. The amount refunded shall be the full amount received by the court under  
3179 Subsection (4), which may be less than the full amount of the monetary bail set by the court.

3180 (6) Before refunding monetary bail that is posted by the defendant in cash, by credit  
3181 card, or by debit card, the court may apply the amount posted toward ~~accounts receivable, as~~  
3182 ~~defined in Section [77-32a-101](#)~~ a criminal accounts receivable, as defined in Section  
3183 [77-32b-102](#), that ~~are~~ is owed by the defendant in the priority set forth in Section ~~[[77-38a-404](#)]~~  
3184 [77-38b-304](#).

3185 Section 72. Section **77-20b-101** is amended to read:

3186 **77-20b-101. Entry of nonappearance -- Notice to surety -- Release of surety on**  
3187 **failure of timely notice.**

3188 (1) If a defendant who has posted bail fails to appear before the appropriate court as  
3189 required, the court shall within 30 days of the failure to appear issue a bench warrant that  
3190 includes the original case number. The court shall also direct that the surety or surety insurer  
3191 be given notice of the nonappearance. The clerk of the court shall:

3192 (a) email notice of nonappearance to the surety or surety insurer at the email address  
3193 provided on the bond;

3194 (b) email a copy of the notice sent under Subsection (1)(a) to the prosecutor's office;  
3195 and

3196 (c) ensure that the name, address, business email address, and telephone number of the  
3197 surety, its agent, or surety insurer as listed on the bond is stated on the bench warrant.

3198 (2) The prosecutor may email notice of nonappearance to the address of the surety or  
3199 surety insurer as listed on the bond within 37 days after the date of the defendant's failure to  
3200 appear.

3201 (3) If notice of nonappearance is not emailed to a surety or surety insurer as listed on  
3202 the bond, other than the defendant, in accordance with Subsection (1) or (2), the surety or  
3203 surety insurer and its bond producer are relieved of further obligation under the bond if the  
3204 surety or surety insurer have listed their current name and email addresses on the bond in the  
3205 court's file.

3206 (4) (a) (i) If a defendant appears in court within 30 days after a missed, scheduled court  
3207 appearance, the court may reinstate the bond without further notice to the surety or surety  
3208 insurer.

3209 (ii) If the defendant, while in custody, appears on the case for which the bond was  
3210 posted, the court may not reinstate the bond without the consent of the bond company.

3211 (b) If a defendant fails to appear within 30 days after a scheduled court appearance, the  
3212 court may not reinstate the bond without the consent of the surety or surety insurer.

3213 (c) If the defendant is arrested and booked into a county jail booking facility pursuant  
3214 to a warrant for failure to appear on the original charges and the court is notified of the arrest,  
3215 or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of  
3216 judgment of forfeiture, the court shall exonerate the bond.

3217 (d) Unless the court makes a finding of good cause why the bond should not be  
3218 exonerated, [it] the court shall exonerate the bond if:

3219 (i) the surety or surety insurer has delivered the defendant to the county jail booking  
3220 facility in the county where the original charge or charges are pending;

3221 (ii) the defendant has been released on a bond secured from a subsequent surety or  
3222 surety insurer for the original charge and the failure to appear;

3223 (iii) after an arrest, the defendant has escaped from jail or has been released on the  
3224 defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail  
3225 capacity, or by a sheriff's release under Section [17-22-5.5](#);

3226 (iv) the surety or surety insurer has transported or agreed to pay for the transportation  
3227 of the defendant from a location outside of the county back to the county where the original  
3228 charge is pending, and the payment is in an amount equal to ~~[government transportation~~  
3229 ~~expenses listed in Section [76-3-201](#)]~~ the cost of government transportation under Section  
3230 [76-3-201](#); or

3231 (v) the surety or surety insurer demonstrates by a preponderance of the evidence that:

3232 (A) at the time the surety or surety insurer issued the bond, it had made reasonable  
3233 efforts to determine that the defendant was legally present in the United States;

3234 (B) a reasonable person would have concluded, based on the surety's or surety insurer's  
3235 determination, that the defendant was legally present in the United States; and

3236 (C) the surety or surety insurer has failed to bring the defendant before the court  
3237 because the defendant is in federal custody or has been deported.

3238 (e) Under circumstances not otherwise provided for in this section, the court may  
3239 exonerate the bond if it finds that the prosecutor has been given reasonable notice of a surety's  
3240 or surety insurer's motion and there is good cause for the bond to be exonerated.

3241 (f) If a surety's or surety insurer's bond has been exonerated under this section and the  
3242 surety or surety insurer remains liable for the cost of transportation of the defendant, the surety  
3243 or surety insurer may take custody of the defendant for the purpose of transporting the  
3244 defendant to the jurisdiction where the charge is pending.

3245 Section 73. Section **77-27-1** is amended to read:

3246 **77-27-1. Definitions.**

3247 As used in this chapter:

3248 (1) "Appearance" means any opportunity to address the board, a board member, a  
3249 panel, or hearing officer, including an interview.

- 3250 (2) "Board" means the Board of Pardons and Parole.
- 3251 (3) (a) "Case action plan" means a document developed by the Department of  
3252 Corrections that identifies the program priorities for the treatment of the offender~~[-including]~~.
- 3253 (b) "Case action plan" includes the criminal risk factors as determined by a risk and  
3254 needs assessment conducted by the department.
- 3255 (4) "Commission" means the State Commission on Criminal and Juvenile Justice  
3256 created in Section 63M-7-201.
- 3257 (5) "Commutation" is the change from a greater to a lesser punishment after  
3258 conviction.
- 3259 (6) "Criminal accounts receivable" means the same as that term is defined in Section  
3260 77-32b-102.
- 3261 ~~[(6)]~~ (7) "Criminal risk factors" means a person's characteristics and behaviors that:  
3262 (a) affect that person's risk of engaging in criminal behavior; and  
3263 (b) are diminished when addressed by effective treatment, supervision, and other  
3264 support resources resulting in reduced risk of criminal behavior.
- 3265 ~~[(7)]~~ (8) "Department" means the Department of Corrections.
- 3266 ~~[(8)]~~ (9) "Expiration" ~~[occurs]~~ means when the maximum sentence has run.
- 3267 ~~[(9)]~~ (10) "Family" means ~~[persons]~~ any individual related to the victim as a spouse,  
3268 child, sibling, parent, or grandparent, or the victim's legal guardian.
- 3269 ~~[(10)]~~ (11) "Hearing" or "full hearing" means an appearance before the board, a panel,  
3270 a board member or hearing examiner, at which an offender or inmate is afforded an opportunity  
3271 to be present and address the board~~[-and encompasses the term "full hearing-"]~~.
- 3272 ~~[(11)]~~ (12) "Location," in reference to a hearing, means the physical location at which  
3273 the board, a panel, a board member, or a hearing examiner is conducting the hearing, regardless  
3274 of the location of any person participating by electronic means.
- 3275 ~~[(12)]~~ (13) "Open session" means any hearing, before the board, a panel, a board  
3276 member, or a hearing examiner ~~[which]~~, that is open to the public, regardless of the location of  
3277 any person participating by electronic means.
- 3278 ~~[(13)]~~ (14) "Panel" means members of the board assigned by the chairperson to a  
3279 particular case.
- 3280 ~~[(14)]~~ (15) "Pardon" ~~[is]~~ means:

- 3281            (a) an act of grace that forgives a criminal conviction and restores the rights and  
 3282 privileges forfeited by or because of the criminal conviction[~~—A pardon releases~~];
- 3283            (b) the release of an offender from the entire punishment prescribed for a criminal  
 3284 offense and from disabilities that are a consequence of the criminal conviction[~~—A pardon~~  
 3285 ~~reinstates~~]; and
- 3286            (c) the reinstatement of any civil rights lost as a consequence of conviction or  
 3287 punishment for a criminal offense.
- 3288            [(15)] (16) "Parole" [is] means a release from imprisonment on prescribed conditions  
 3289 which, if satisfactorily performed by the parolee, enables the parolee to obtain a termination of  
 3290 [his] the parolee's sentence.
- 3291            (17) "Payment schedule" means the same as that term is defined in Section  
 3292 [77-32b-102](#).
- 3293            (18) "Pecuniary damages" means the same as that term is defined in Section  
 3294 [77-38b-102](#).
- 3295            [(16)] (19) "Probation" [is] means an act of grace by the court suspending the  
 3296 imposition or execution of a convicted offender's sentence upon prescribed conditions.
- 3297            (20) "Remit" or "remission" means the same as that term is defined in Section  
 3298 [77-32b-102](#).
- 3299            [(17) "~~Reprieve or respite~~" is]
- 3300            (21) "Reprieve" or "respite" means the temporary suspension of the execution of the  
 3301 sentence.
- 3302            (22) "Restitution" means the same as that term is defined in Section [77-38b-102](#).
- 3303            [(18)] (23) "Termination" [is] means the act of discharging from parole or concluding  
 3304 the sentence of imprisonment [~~prior to~~] before the expiration of the sentence.
- 3305            [(19)] (24) "Victim" means:
- 3306            (a) a person against whom the defendant committed a felony or class A misdemeanor  
 3307 offense[~~, and regarding which offense~~] for which a hearing is held under this chapter; or
- 3308            (b) the victim's family[~~,]~~ if the victim is deceased as a result of the offense for which a  
 3309 hearing is held under this chapter.
- 3310            Section 74. Section ~~77-27-2~~ is amended to read:
- 3311            **77-27-2. Board of Pardons and Parole -- Creation -- Compensation -- Functions.**

3312 (1) (a) There is created the Board of Pardons and Parole.

3313 (b) The board shall consist of five full-time members and not more than five pro  
3314 tempore members to be appointed by the governor with the advice and consent of the Senate in  
3315 accordance with Title 63G, Chapter 24, Part 2, Vacancies, and as provided in this section.

3316 (c) The members of the board shall be resident citizens of the state.

3317 (d) The governor shall establish salaries for the members of the board within the salary  
3318 range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

3319 (2) (a) (i) (A) The full-time board members shall serve terms of five years.

3320 (B) The terms of the full-time members shall be staggered so one board member is  
3321 appointed for a term of five years on March 1 of each year.

3322 (ii) (A) The pro tempore members shall serve terms of five years, beginning on March  
3323 1 of the year of appointment, with no more than one pro tempore member term beginning or  
3324 expiring in the same calendar year.

3325 (B) If a pro tempore member vacancy occurs, the board may submit the names of not  
3326 fewer than three or more than five persons to the governor for appointment to fill the vacancy.

3327 (b) All vacancies occurring on the board for any cause shall be filled by the governor  
3328 with the advice and consent of the Senate [~~pursuant to~~] in accordance with this section for the  
3329 unexpired term of the vacating member.

3330 (c) The governor may at any time remove any member of the board for inefficiency,  
3331 neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

3332 (d) (i) A member of the board may not hold any other office in the government of the  
3333 United States, this state or any other state, or of any county government or municipal  
3334 corporation within a state.

3335 (ii) A member may not engage in any occupation or business inconsistent with the  
3336 member's duties.

3337 (e) (i) A majority of the board constitutes a quorum for the transaction of business,  
3338 including the holding of hearings at any time or any location within or without the state, or for  
3339 the purpose of exercising any duty or authority of the board. [~~Action taken by a majority of the  
3340 board regarding whether parole, pardon, commutation, termination of sentence, or remission of  
3341 fines or forfeitures may be granted or restitution ordered in individual cases is deemed the  
3342 action of the board.~~]

3343 (ii) An action is deemed the action of the board if the action is taken by a majority of  
3344 the board regarding whether:

3345 (A) parole, pardon, commutation, or termination of a sentence is granted in an  
3346 offender's case;

3347 (B) remission of a criminal accounts receivable, or a fines or forfeiture, is granted in an  
3348 offender's case; or

3349 (C) an offender's payment schedule for a criminal accounts receivable is modified.

3350 (iii) A majority vote of the five full-time members of the board is required for adoption  
3351 of rules or policies of general applicability as provided by statute. [However,]

3352 (iv) Notwithstanding Subsection (2)(e)(iii), a vacancy on the board does not impair the  
3353 right of the remaining board members to exercise any duty or authority of the board as long as a  
3354 majority of the board remains.

3355 (v) A board member shall comply with the conflict of interest provisions described in  
3356 Title 63G, Chapter 24, Part 3, Conflicts of Interest.

3357 (f) (i) Any investigation, inquiry, or hearing that the board has authority to undertake or  
3358 hold may be conducted by any board member or an examiner appointed by the board.

3359 (ii) When [~~any of these actions are~~] an action under Subsection (2)(f)(i) is approved  
3360 and confirmed by the board and filed in [its] the board's office, [~~they are~~] the action is  
3361 considered to be the action of the board and [~~have~~] has the same effect as if originally made by  
3362 the board.

3363 (g) (i) When a full-time board member is absent or in other extraordinary  
3364 circumstances, the chair may, as dictated by public interest and efficient administration of the  
3365 board, assign a pro tempore member to act in the place of a full-time member.

3366 (ii) Pro tempore members shall receive a per diem rate of compensation as established  
3367 by the Division of Finance and all actual and necessary expenses incurred in attending to  
3368 official business.

3369 (h) The chair may request staff and administrative support as necessary from the  
3370 [~~Department of Corrections~~] department.

3371 (3) (a) Except as provided in Subsection (3)(b), the [~~Commission on Criminal and~~  
3372 Juvenile Justice] commission shall:

3373 (i) recommend five applicants to the governor for a full-time member appointment to

3374 the ~~[Board of Pardons and Parole]~~ board; and

3375 (ii) consider applicants' knowledge of the criminal justice system, state and federal  
3376 criminal law, judicial procedure, corrections policies and procedures, and behavioral sciences.

3377 (b) The procedures and requirements of Subsection (3)(a) do not apply if the governor  
3378 appoints a sitting board member to a new term of office.

3379 (4) (a) (i) The board shall appoint an individual to serve as ~~[its]~~ the board's mental  
3380 health adviser and may appoint other staff necessary to aid ~~[it]~~ the board in fulfilling ~~[its]~~ the  
3381 board's responsibilities under Title 77, Chapter 16a, Commitment and Treatment of Persons  
3382 with a Mental Illness.

3383 (ii) The adviser shall prepare reports and recommendations to the board on all persons  
3384 adjudicated as guilty with a mental illness, in accordance with Title 77, Chapter 16a,  
3385 Commitment and Treatment of Persons with a Mental Illness.

3386 (b) The mental health adviser shall possess the qualifications necessary to carry out the  
3387 duties imposed by the board and may not be employed by the ~~[Department of Corrections]~~  
3388 department or the Utah State Hospital.

3389 (i) The ~~[Board of Pardons and Parole]~~ board may review outside employment by the  
3390 mental health advisor.

3391 (ii) The ~~[Board of Pardons and Parole]~~ board shall develop rules governing  
3392 employment with entities other than the board by the mental health advisor for the purpose of  
3393 prohibiting a conflict of interest.

3394 (c) The mental health adviser shall:

3395 (i) act as liaison for the board with the Department of Human Services and local mental  
3396 health authorities;

3397 (ii) educate the members of the board regarding the needs and special circumstances of  
3398 persons with a mental illness in the criminal justice system;

3399 (iii) in cooperation with the ~~[Department of Corrections]~~ department, monitor the  
3400 status of persons in the prison who have been found guilty with a mental illness;

3401 (iv) monitor the progress of other persons under the board's jurisdiction who have a  
3402 mental illness;

3403 (v) conduct hearings as necessary in the preparation of reports and recommendations;

3404 and

3405 (vi) perform other duties as assigned by the board.

3406 Section 75. Section ~~77-27-5~~ is amended to read:

3407 **77-27-5. Board of Pardons and Parole authority.**

3408 (1) (a) [~~The Board of Pardons and Parole~~] Subject to this chapter and other laws of the  
3409 state, and except for a conviction for treason or impeachment, the board shall determine by  
3410 majority decision when and under what conditions [~~any convictions, except for treason or~~  
3411 ~~impeachment, may be pardoned or commuted, subject to this chapter and other laws of the~~  
3412 ~~state.~~] an offender's conviction may be pardoned or commuted.

3413 (b) The Board of Pardons and Parole shall determine by majority decision when and  
3414 under what conditions[, ~~subject to this chapter and other laws of the state, individuals~~  
3415 ~~committed to serve sentences at penal or correctional facilities that are under the jurisdiction of~~  
3416 ~~the Department of Corrections, except treason or impeachment convictions or as otherwise~~  
3417 ~~limited by law, may be released upon parole, ordered to pay restitution, or have their fines,~~  
3418 ~~forfeitures, or restitution remitted, or their sentences terminated.] an offender committed to  
3419 serve a sentence at a penal or correctional facility, which is under the jurisdiction of the  
3420 department, may:~~

3421 (i) be released upon parole;

3422 (ii) have a fine or forfeiture remitted;

3423 (iii) have the offender's criminal accounts receivable remitted in accordance with  
3424 Section [77-32b-105](#) or [77-32b-106](#);

3425 (iv) have the offender's payment schedule modified in accordance with Section  
3426 [77-32b-103](#); or

3427 (v) have the offender's sentence terminated.

3428 (c) (i) The board may sit together or in panels to conduct hearings.

3429 (ii) The chair shall appoint members to the panels in any combination and in  
3430 accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative  
3431 Rulemaking Act, by the board.

3432 (iii) The chair may participate on any panel and when doing so is chair of the panel.

3433 (iv) The chair of the board may designate the chair for any other panel.

3434 [~~(d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole,~~  
3435 ~~pardon, or commutation granted or sentence terminated, except after a full hearing before the~~

3436 board or the board's appointed examiner in open session. Any action taken under this  
3437 subsection]

3438 (d) (i) Except after a hearing before the board, or the board's appointed examiner, in an  
3439 open session, the board may not:

3440 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts  
3441 receivable;

3442 (B) release the offender on parole; or

3443 (C) commute, pardon, or terminate an offender's sentence.

3444 (ii) An action taken under this Subsection (1) other than by a majority of the board  
3445 shall be affirmed by a majority of the board.

3446 (e) A commutation or pardon may be granted only after a full hearing before the board.

3447 [~~(f) The board may determine restitution as provided in Section 77-27-6 and~~  
3448 ~~Subsection 77-38a-302(5)(d)(iii)(A).]~~

3449 (2) (a) In the case of any hearings, timely prior notice of the time and location of the  
3450 hearing shall be given to the offender.

3451 (b) The county or district attorney's office responsible for prosecution of the case, the  
3452 sentencing court, and law enforcement officials responsible for the defendant's arrest and  
3453 conviction shall be notified of any board hearings through the board's website.

3454 (c) Whenever possible, the victim or the victim's representative, if designated, shall be  
3455 notified of original hearings and any hearing after that if notification is requested and current  
3456 contact information has been provided to the board.

3457 (d) (i) Notice to the victim or the victim's representative shall include information  
3458 provided in Section 77-27-9.5, and any related rules made by the board under that section.[  
3459 This information]

3460 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are  
3461 reasonable for the lay person to understand.

3462 [~~(3) Decisions of the board in cases involving paroles, pardons, commutations or~~  
3463 ~~terminations of sentence, restitution, or remission of fines or forfeitures are final and are not~~  
3464 ~~subject to judicial review.]~~

3465 (3) (a) A decision by the board is final and not subject for judicial review if the  
3466 decision is regarding:

3467 (i) a pardon, parole, commutation, or termination of an offender's sentence;  
3468 (ii) the modification of an offender's payment schedule for restitution; or  
3469 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

3470 (b) Nothing in this section prevents the obtaining or enforcement of a civil judgment[;  
3471 ~~including restitution as provided in Section 77-27-6.];~~

3472 (4) (a) This chapter may not be construed as a denial of or limitation of the governor's  
3473 power to grant respite or reprieves in all cases of convictions for offenses against the state,  
3474 except treason or conviction on impeachment. [However,]

3475 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the  
3476 next session of the Board of Pardons and Parole [and the board, at that session,].

3477 (c) At the next session of the board, the board:

3478 (i) shall continue or terminate the respite or reprieve[; or it]; or

3479 (ii) may commute the punishment[;] or pardon the offense as provided.

3480 (d) In the case of conviction for treason, the governor may suspend execution of the  
3481 sentence until the case is reported to the Legislature at [its] the Legislature's next session.

3482 (e) The Legislature shall [then either] pardon or commute the sentence[; or direct its  
3483 execution] or direct the sentence's execution.

3484 (5) (a) In determining when, where, and under what conditions an offender serving a  
3485 sentence may be [paroled, pardoned, have restitution ordered, or have the offender's fines or  
3486 forfeitures remitted, or the] paroled or pardoned, have a fine or forfeiture remitted, have the  
3487 offender's criminal accounts receivable remitted, or have the offender's sentence commuted or  
3488 terminated, the board shall:

3489 ~~[(a)]~~ (i) [consider whether the offender has made or is prepared to make restitution as  
3490 ascertained in accordance with the standards and procedures of Section 77-38a-302, as a  
3491 condition of any parole, pardon, remission of fines or forfeitures, or commutation or  
3492 termination of sentence; and] consider whether the offender has made restitution ordered by the  
3493 court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole,  
3494 pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or  
3495 termination of the offender's sentence; and

3496 ~~[(b)]~~ (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for  
3497 making determinations under this Subsection (5).

3498 (b) The board shall determine whether to remit an offender's criminal accounts  
3499 receivable under this Subsection (5) in accordance with Section [77-32b-105](#) or [77-32b-106](#).

3500 (6) In determining whether parole may be terminated, the board shall consider:

3501 (a) the offense committed by the parolee; and

3502 (b) the parole period [~~as provided in~~] under Section [76-3-202](#), and in accordance with  
3503 Section [77-27-13](#).

3504 (7) For [~~offenders~~] an offender placed on parole after December 31, 2018, the board  
3505 shall terminate parole in accordance with the supervision length guidelines established by the  
3506 Utah Sentencing Commission under Section [63M-7-404](#), to the extent the guidelines are  
3507 consistent with the requirements of the law.

3508 Section 76. Section [77-27-6.1](#) is enacted to read:

3509 **[77-27-6.1. Payment of a criminal accounts receivable -- Failure to enter an order](#)**  
3510 **for restitution or create a criminal accounts receivable -- Modification of a criminal**  
3511 **accounts receivable -- Order for recovery of costs or pecuniary damages.**

3512 (1) When an offender is committed to prison, the board may require the offender to pay  
3513 the offender's criminal accounts receivable ordered by the court during the period of  
3514 incarceration or parole supervision.

3515 (2) If the board orders the release of an offender on parole and there is an unpaid  
3516 balance on the offender's criminal account receivable, the board may modify the payment  
3517 schedule entered by the court for the offender's criminal accounts receivable in accordance with  
3518 Section [77-32b-105](#).

3519 (3) (a) If the sentencing court has not entered an order of restitution for an offender  
3520 who is under the jurisdiction of the board, the board shall refer the offender's case to the  
3521 sentencing court, within the time periods described in Subsection [77-38b-205\(5\)](#), to enter an  
3522 order for restitution for the offender in accordance with Section [77-38b-205](#).

3523 (b) If the sentencing court has not entered an order to establish a criminal accounts  
3524 receivable for an offender who is under the jurisdiction of the board, the board shall refer the  
3525 offender's case to the sentencing court, within the time periods described in Subsection  
3526 [77-38b-205\(5\)](#), to enter an order to establish a criminal accounts receivable for the offender in  
3527 accordance with Section [77-32b-103](#).

3528 (4) (a) If there is a challenge to an offender's criminal accounts receivable, the board

3529 shall refer the offender's case to the sentencing court, within the time periods described in  
3530 Subsection 77-38b-205(5), to resolve the challenge to the criminal accounts receivable.

3531 (b) If a sentencing court modifies a criminal accounts receivable after the offender is  
3532 committed to prison, the sentencing court shall provide notice to the board of the modification.

3533 (5) The board may enter an order to recover any cost incurred by the department, or the  
3534 state or any other agency, arising out of the offender's needs or conduct.

3535 Section 77. Section 77-27-11 is amended to read:

3536 **77-27-11. Revocation of parole.**

3537 (1) The board may revoke the parole of any individual who is found to have violated  
3538 any condition of the individual's parole.

3539 (2) (a) If a parolee is confined by the [~~Department of Corrections~~] department or any  
3540 law enforcement official for a suspected violation of parole, the [~~Department of Corrections~~]  
3541 department:

3542 (i) shall immediately report the alleged violation to the board, by means of an incident  
3543 report[;]; and

3544 (ii) make any recommendation regarding the incident.

3545 (b) [~~No parolee may be~~] A parolee may not be held for a period longer than 72 hours,  
3546 excluding weekends and holidays, without first obtaining a warrant.

3547 (3) Any member of the board may:

3548 (a) issue a warrant based upon a certified warrant request to a peace officer or other  
3549 persons authorized to arrest, detain, and return to actual custody a parolee[; ~~and may~~]; and

3550 (b) upon arrest [~~or otherwise direct the Department of Corrections to~~] of the parolee,  
3551 determine, or direct the department to determine, if there is probable cause to believe that the  
3552 parolee has violated the conditions of the parolee's parole.

3553 (4) Upon a finding of probable cause, a parolee may be further detained or imprisoned  
3554 again pending a hearing by the board or [~~its~~] the board's appointed examiner.

3555 (5) (a) The board or [~~its~~] the board's appointed examiner shall conduct a hearing on the  
3556 alleged violation, and the parolee shall have written notice of the time and location of the  
3557 hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

3558 (b) The board or [~~its~~] the board's appointed examiner shall provide the parolee the  
3559 opportunity:

- 3560 (i) to be present;
- 3561 (ii) to be heard;
- 3562 (iii) to present witnesses and documentary evidence;
- 3563 (iv) to confront and cross-examine adverse witnesses, absent a showing of good cause
- 3564 for not allowing the confrontation; and
- 3565 (v) to be represented by counsel when the parolee is mentally incompetent or pleading
- 3566 not guilty.

3567 (c) (i) If heard by an appointed examiner, the examiner shall make a written decision  
3568 which shall include a statement of the facts relied upon by the examiner in determining the  
3569 guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the  
3570 alleged violation occurred.

3571 (ii) The appointed examiner shall then refer the case to the board for disposition.

3572 [~~(d) Final decisions shall be reached by majority vote of the members of the board~~  
3573 ~~sitting and the parolee shall be promptly notified in writing of the board's findings and~~  
3574 ~~decision.~~]

3575 [~~(6) (a) Parolees found to have violated the conditions of parole may, at the discretion~~  
3576 ~~of the board, be returned to parole, have restitution ordered, or be imprisoned again as~~  
3577 ~~determined by the board, not to exceed the maximum term, or be subject to any other~~  
3578 ~~conditions the board may impose within its discretion.~~]

3579 (d) (i) A final decision shall be reached by a majority vote of the sitting members of the  
3580 board.

3581 (ii) A parolee shall be promptly notified in writing of the board's findings and decision.

3582 (6) (a) If a parolee is found to have violated the terms of parole, the board, at the  
3583 board's discretion, may:

3584 (i) return the parolee to parole;

3585 (ii) modify the payment schedule for the parolee's criminal accounts receivable in  
3586 accordance with Section [77-32b-105](#);

3587 (iii) order the parolee to pay pecuniary damages that are proximately caused by a  
3588 defendant's violation of the terms of the defendant's parole;

3589 (iv) order the parolee to be imprisoned, but not to exceed the maximum term of  
3590 imprisonment for the parolee's sentence; or

3591 (v) order any other conditions for the parolee.

3592 (b) If the board returns the parolee to parole, the length of parole may not be for a  
3593 period of time that exceeds the length of the parolee's maximum sentence.

3594 (c) If the board revokes parole for a violation and orders incarceration, the board shall  
3595 impose a period of incarceration consistent with the guidelines under Subsection  
3596 [63M-7-404\(5\)](#).

3597 (d) The following periods of time constitute service of time toward the period of  
3598 incarceration imposed under Subsection (6)(c):

3599 (i) time served in jail by a parolee awaiting a hearing or decision concerning revocation  
3600 of parole; and

3601 (ii) time served in jail by a parolee due to a violation of parole under Subsection  
3602 [64-13-6\(2\)](#).

3603 Section 78. Section ~~77-30-24~~ is amended to read:

3604 **77-30-24. Payment of expenses -- Extradition costs.**

3605 (1) (a) When the punishment of [~~the crime~~] an offense is the confinement of the  
3606 defendant in prison, the expenses shall be paid out of the state treasury on the certificate of the  
3607 governor and warrant of the auditor[~~, and in~~].

3608 (b) In all other cases [they], the expenses for confinement shall be paid out of the  
3609 treasury of the county where the [~~crime~~] offense is alleged to have been committed.

3610 (c) The expenses shall be the fees paid to the officers of the state on whose governor  
3611 the requisition is made.

3612 [~~(2) Any person who is returned to the state under this chapter, and who is convicted~~  
3613 ~~of, or pleads guilty or no contest to, the criminal charge or to a lesser criminal charge may,~~  
3614 ~~under Sections [76-3-201](#), [77-27-5](#), and [77-27-6](#), be required to make restitution to the~~  
3615 ~~appropriate governmental entities for the costs of his extradition.]~~

3616 (2) If a defendant is returned to the state under this chapter and the defendant is  
3617 convicted of, or pleads guilty or no contest to, the offense or to a lesser offense, the defendant  
3618 may be required to pay the costs of extradition to the appropriate governmental entity as  
3619 described in Subsection [76-3-201\(4\)\(c\)](#).

3620 Section 79. Section ~~77-32b-101~~ is enacted to read:

3621 **CHAPTER 32b. CRIMINAL ACCOUNTS RECEIVABLE AND COSTS**

3622 77-32b-101. Title.

3623 This chapter is known as "Criminal Accounts Receivable and Costs."

3624 Section 80. Section **77-32b-102**, which is renumbered from Section 77-32a-101 is  
3625 renumbered and amended to read:

3626 ~~[77-32a-101].~~ 77-32b-102. Definitions.

3627 As used in this chapter:

3628 ~~[(1) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,~~  
3629 ~~surcharges, costs, interest, penalties, restitution to victims, third party claims, claims,~~  
3630 ~~reimbursement of a reward, and damages.]~~

3631 ~~[(2) "Criminal judgment accounts receivable" means any amounts owed by a criminal~~  
3632 ~~defendant arising from a criminal judgment that has not been paid. This includes fines,~~  
3633 ~~surcharges, costs, interest, and restitution.]~~

3634 (1) "Board" means the Board of Pardons and Parole.

3635 (2) (a) "Civil accounts receivable" means any amount of the criminal accounts  
3636 receivable that is owed by the defendant that has not been paid on or before the day on which:

3637 (i) the defendant's sentence is terminated; or

3638 (ii) the court enters an order for a civil accounts receivable under Subsection  
3639 77-18-114(1) or (2).

3640 (b) "Civil accounts receivable" does not include any amount of the criminal accounts  
3641 receivable that is owed by the defendant for restitution.

3642 (3) "Civil judgment of restitution" means any amount of the criminal accounts  
3643 receivable that is owed by the defendant for restitution that has not been paid on or before the  
3644 day on which the defendant's sentence is terminated.

3645 (4) (a) "Criminal accounts receivable" means any amount owed by a defendant that  
3646 arises from a criminal judgment until:

3647 (i) the defendant's sentence terminates;

3648 (ii) the court enters an order for a civil accounts receivable under Subsection  
3649 77-18-114(1) or (2); or

3650 (iii) if the court requires the defendant, upon termination of the probation period for the  
3651 defendant, to continue to make payments on the criminal accounts as described in Subsection  
3652 77-18-105(8), the defendant's sentence expires.

3653 (b) "Criminal accounts receivable" includes unpaid fees, forfeitures, surcharges, costs,  
3654 interest, penalties, restitution, third party claims, claims, reimbursement of a reward, and  
3655 damages.

3656 ~~[(3)]~~ (5) "Default" means [an account receivable] a civil accounts receivable, a civil  
3657 judgment of restitution, or a criminal accounts receivable that is overdue by at least 90 days.

3658 ~~[(4)]~~ (6) "Delinquent" means [an account receivable or installment payment] a civil  
3659 accounts receivable, a civil judgment of restitution, or a criminal account receivable that is  
3660 overdue by more than 28 days but less than 90 days.

3661 (7) "Payment schedule" means the amount that is be paid by a defendant in  
3662 installments, or by a certain date, to satisfy a criminal accounts receivable for the defendant.

3663 (8) "Remit" or "remission" means to forgive or to excuse, in whole or in part, any  
3664 unpaid amount of a criminal accounts receivable.

3665 (9) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

3666 Section 81. Section **77-32b-103** is enacted to read:

3667 **77-32b-103. Establishment of a criminal account receivable -- Responsibility --**  
3668 **Payment schedule -- Delinquency or default.**

3669 (1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or  
3670 acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts  
3671 receivable for the defendant.

3672 (b) The court is not required to create a criminal accounts receivable for the defendant  
3673 under Subsection (1) if the court finds that the defendant does not owe restitution and there are  
3674 no other fines or fees to be assessed against the defendant.

3675 (c) Subject to Subsection [77-38b-205](#)(5), if the court does not create a criminal  
3676 accounts receivable for a defendant under Subsection (1), the court shall enter an order to  
3677 establish a criminal accounts receivable for the defendant at the time the court enters an order  
3678 for restitution under Section [77-38b-205](#).

3679 (2) After establishing a criminal accounts receivable for a defendant, the court shall:

3680 (a) if a prison sentence is imposed and not suspended for the defendant:

3681 (i) accept any payment for the criminal accounts receivable that is tendered on the date  
3682 of sentencing; and

3683 (ii) transfer the responsibility of receiving, distributing, and processing payments for

3684 the criminal accounts receivable to the Office of State Debt Collection; and

3685 (b) for all other cases:

3686 (i) retain the responsibility for receiving, processing, and distributing payments for the  
3687 criminal accounts receivable until the court enters a civil accounts receivable or civil judgment  
3688 of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

3689 (ii) record each payment by the defendant on the case docket.

3690 (c) For a criminal accounts receivable that a court retains responsibility for receiving,  
3691 processing, and distributing payments under Subsection (1)(b)(i), the Judicial Council may  
3692 establish rules to require a defendant to pay the cost, or a portion of the cost, that is charged by  
3693 a financial institution for the use of a credit or debit card by the defendant to make payments  
3694 towards the criminal accounts receivable.

3695 (3) (a) Upon entering an order for a criminal accounts receivable, the court shall  
3696 establish a payment schedule for the defendant to make payments towards the criminal  
3697 accounts receivable.

3698 (b) In establishing the payment schedule for the defendant, the court shall consider:

3699 (i) the needs of the victim if the criminal accounts receivable includes an order for  
3700 restitution under Section 77-38b-205;

3701 (ii) the financial resources of the defendant, as disclosed in the financial declaration  
3702 under Section 77-38b-204;

3703 (iii) the burden that the payment schedule will impose on the defendant regarding the  
3704 other reasonable obligations of the defendant;

3705 (iv) the ability of the defendant to pay restitution on an installment basis or on other  
3706 conditions fixed by the court;

3707 (v) the rehabilitative effect on the defendant of the payment of restitution and method  
3708 of payment; and

3709 (vi) any other circumstance that the court determines is relevant.

3710 (4) A payment schedule for a criminal accounts receivable does not limit the ability of  
3711 a judgment creditor to pursue collection by any means allowable by law.

3712 (5) If the court orders restitution under Section 77-38b-205, or makes another financial  
3713 decision, after sentencing that increases the total amount owed in a defendant's case, the  
3714 defendant's criminal accounts receivable balance shall be adjusted to include any new amount

3715 ordered by the court.

3716 (6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as  
3717 defined in Section 64-13-1, or the defendant is involuntarily committed under Section  
3718 62A-15-631, all payments for a payment schedule shall be suspended for the period of time that  
3719 the defendant is incarcerated or involuntarily committed, unless the court, or the board if the  
3720 defendant is under the jurisdiction of the board, expressly orders the defendant to make  
3721 payments according to the payment schedule.

3722 (b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day  
3723 in which the defendant is released from incarceration or commitment.

3724 Section 82. Section ~~77-32a-107~~, which is renumbered from Section 77-32a-107 is  
3725 renumbered and amended to read:

3726 ~~[77-32a-107].~~ **77-32b-104. Costs -- What constitute costs -- Ability to pay.**

3727 ~~[Costs]~~ (1) Except for a cost described in Subsection 76-3-201(4), costs shall be  
3728 limited to expenses ~~[specially]~~ incurred by the state or any political subdivision ~~[in]~~ of the state  
3729 for investigating, searching for, apprehending, and prosecuting the defendant, including:

3730 (a) attorney fees of counsel assigned to represent the defendant~~[-and];~~

3731 (b) investigators' fees~~[-Costs may];~~ or

3732 (c) except for a monetary reward that is paid to a codefendant, an accomplice, or a  
3733 bounty hunter, a monetary reward that is:

3734 (i) offered to the public in exchange for information that would lead to the  
3735 apprehension and conviction of the defendant; and

3736 (ii) paid to a person who provided information that led to the apprehension and  
3737 conviction of the defendant.

3738 (2) A cost may not include:

3739 (a) expenses inherent in providing a constitutionally guaranteed trial ~~[or];~~

3740 (b) expenditures in connection with the maintenance and operation of government  
3741 agencies that must be made by the public irrespective of specific violations of law~~[-Costs may~~  
3742 not include]; or

3743 (c) attorney fees for prosecuting attorneys.

3744 (3) The court may not order a defendant to pay a cost, unless there is evidence that the  
3745 defendant is, or will be, able to pay the cost.

3746 (4) In determining the amount of a cost that a defendant is ordered to pay, the court  
3747 shall take into account:

3748 (a) the financial resources of the defendant;

3749 (b) the nature of the burden that payment of the cost will impose; and

3750 (c) that restitution is prioritized over any cost.

3751 Section 83. Section **77-32b-105** is enacted to read:

3752 **77-32b-105. Petition for remittance or modification of a criminal accounts**  
3753 **receivable before termination of a sentence.**

3754 (1) At any time before a defendant's sentence terminates, the defendant may petition  
3755 the sentencing court to:

3756 (a) correct an error in a criminal accounts receivable;

3757 (b) modify the payment schedule for the defendant's criminal accounts receivable in  
3758 accordance with this section if the defendant is not under the jurisdiction of the board; or

3759 (c) remit, in whole or in part, an unpaid amount of the defendant's criminal accounts  
3760 receivable that is not the principal amount owed for restitution in accordance with this section.

3761 (2) If a defendant files a petition under Subsection (1), and it appears to the satisfaction  
3762 of the sentencing court that payment of an unpaid amount of a criminal accounts receivable  
3763 will impose manifest hardship on the defendant, or the defendant's family, the court may:

3764 (a) if the criminal accounts receivable is not delinquent or in default, remit, in whole or  
3765 in part, the unpaid amount of the criminal accounts receivable that is not the principal amount  
3766 owed for restitution; or

3767 (b) regardless of whether the criminal accounts receivable is delinquent or in default:

3768 (i) require the defendant to pay the criminal accounts receivable, or a specified amount  
3769 of the criminal accounts receivable, by a certain date;

3770 (ii) modify the payment schedule for the criminal accounts receivable in accordance  
3771 with the factors described in Subsection [77-32b-103\(3\)\(b\)](#) if the defendant has demonstrated  
3772 that the criminal accounts receivable will impose a manifest hardship due to changed  
3773 circumstances or new evidence that justifies modifying the payment schedule; or

3774 (iii) allow the defendant to satisfy an unpaid amount of the criminal accounts  
3775 receivable that is not the principal amount owed for restitution with proof of compensatory  
3776 service completed by the defendant at a rate of credit not less than \$10 for each hour of

3777 compensatory service.

3778 (3) (a) If a defendant is under the jurisdiction of the board, the defendant may petition  
3779 the board, at any time before the defendant's sentence terminates, to modify the payment  
3780 schedule for the defendant's criminal accounts receivable.

3781 (b) If a defendant files a petition under Subsection (3)(a), the board may modify the  
3782 payment schedule for the criminal accounts receivable in accordance with the factors described  
3783 in Subsection 77-32b-103(3)(b) if the defendant has demonstrated that the criminal accounts  
3784 receivable will impose a manifest hardship to the defendant, or the defendant's family, due to  
3785 changed circumstances or new evidence that justifies modifying the payment schedule.

3786 Section 84. Section 77-32b-106 is enacted to read:

3787 **77-32b-106. Petition for remittance of an unpaid balance of a criminal accounts**  
3788 **receivable upon termination of a sentence.**

3789 (1) (a) If a defendant is not under the jurisdiction of the board, and if any amount of a  
3790 defendant's criminal accounts receivable is unpaid at the termination of the defendant's  
3791 sentence, the defendant may petition the sentencing court, within 90 days after the day on  
3792 which the sentence is terminated, to remit, in whole or in part, the unpaid amount of the  
3793 criminal accounts receivable.

3794 (b) (i) If a defendant is under the jurisdiction of the board, and if any amount of the  
3795 defendant's criminal accounts receivable is unpaid at the termination of the defendant's  
3796 sentence, the defendant may petition the board within 90 days after the day on which the  
3797 sentence is terminated, to remit, in whole or in part, the unpaid amount of the criminal accounts  
3798 receivable.

3799 (ii) If a defendant files a petition for remittance under Subsection (1)(b)(i) within 90  
3800 days from the day on which the defendant's sentence is terminated, the board retains  
3801 jurisdiction over the defendant's case beyond the termination of the defendant's sentence to  
3802 determine whether to remit, in whole or in part, the defendant's criminal accounts receivable.

3803 (2) (a) If a petition is filed under Subsection (1), a hearing shall be held, unless the  
3804 court or the board determines that the petition under Subsection (1) is frivolous or the petition  
3805 is uncontested.

3806 (b) If a hearing is held under Subsection (2)(a), and the court, or the board, finds by a  
3807 preponderance of the evidence that the factors listed in Subsection (3) weigh in favor of

3808 remitting, in whole or in part, the unpaid amount of a criminal accounts receivable, the court or  
3809 the board may remit:

3810 (i) any of the unpaid amount of the criminal accounts receivable that is not the  
3811 principal amount owed for restitution; or

3812 (ii) if the victim consents to remittance of the unpaid amount of the criminal accounts  
3813 receivable that is restitution that the defendant owes to the victim, any of the unpaid amount of  
3814 restitution that defendant owes to the victim.

3815 (c) The court, or the board, shall give the prosecuting attorney and the victim:

3816 (i) notice of a hearing on the remittance of a criminal accounts receivable; and

3817 (ii) an opportunity to be heard at the hearing.

3818 (d) Nothing in this section shall be construed to prohibit a victim from pursuing a  
3819 private action against a defendant, even if the victim consents to the remission of restitution.

3820 (3) In making a determination to remit an unpaid amount of a criminal accounts  
3821 receivable, the court, or the board, shall consider:

3822 (a) whether the defendant has made substantial and good faith efforts to make  
3823 payments on the criminal accounts receivable;

3824 (b) the needs of the victim;

3825 (c) whether the remission would further the rehabilitation of the defendant;

3826 (d) the ability of the defendant to continue to make payments on a civil accounts  
3827 receivable; and

3828 (e) any other factor that the court or the board determines is relevant.

3829 (4) If any unpaid amount of a criminal accounts receivable is not remitted by the court  
3830 or the board upon termination of the defendant's sentence, the court shall proceed with an order  
3831 for a civil judgment of restitution and a civil accounts receivable as described in Section  
3832 [77-18-114](#).

3833 Section 85. Section **77-32b-107**, which is renumbered from Section 77-32a-110 is  
3834 renumbered and amended to read:

3835 ~~[77-32a-110]~~. **77-32b-107. Verified statement of time and expenses of**  
3836 **counsel for indigent defendants.**

3837 The court may require a verified statement of time and expenses from appointed  
3838 counsel, or the nonprofit legal aid or other association providing counsel [~~to convicted indigent~~

3839 defendants], for a convicted indigent defendant in order to establish [the costs, if any, which  
3840 will be included in the judgment] any cost under Section 77-32b-104 that will be included in  
3841 the judgment.

3842 Section 86. Section 77-37-3 is amended to read:

3843 **77-37-3. Bill of rights.**

3844 (1) The bill of rights for victims and witnesses is:

3845 (a) Victims and witnesses have a right to be informed as to the level of protection from  
3846 intimidation and harm available to them, and from what sources, as they participate in criminal  
3847 justice proceedings as designated by Section 76-8-508, regarding witness tampering, and  
3848 Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and  
3849 corrections personnel have the duty to timely provide this information in a form which is useful  
3850 to the victim.

3851 (b) Victims and witnesses, including children and their guardians, have a right to be  
3852 informed and assisted as to their role in the criminal justice process. All criminal justice  
3853 agencies have the duty to provide this information and assistance.

3854 (c) Victims and witnesses have a right to clear explanations regarding relevant legal  
3855 proceedings; these explanations shall be appropriate to the age of child victims and witnesses.  
3856 All criminal justice agencies have the duty to provide these explanations.

3857 (d) Victims and witnesses should have a secure waiting area that does not require them  
3858 to be in close proximity to defendants or the family and friends of defendants. Agencies  
3859 controlling facilities shall, whenever possible, provide this area.

3860 (e) Victims may seek restitution or reparations, including medical costs, as provided in  
3861 Title 63M, Chapter 7, Criminal Justice and Substance Abuse, [~~and Sections 62A-7-109.5;~~  
3862 ~~77-38a-302, and 77-27-6.~~] Title 77, Chapter 38b, Crime Victims Restitution Act, and Section  
3863 78A-6-117. State and local government agencies that serve victims have the duty to have a  
3864 functional knowledge of the procedures established by the Crime Victim Reparations Board  
3865 and to inform victims of these procedures.

3866 (f) Victims and witnesses have a right to have any personal property returned as  
3867 provided in Sections 77-24a-1 through 77-24a-5. Criminal justice agencies shall expeditiously  
3868 return the property when it is no longer needed for court law enforcement or prosecution  
3869 purposes.

3870 (g) Victims and witnesses have the right to reasonable employer intercession services,  
3871 including pursuing employer cooperation in minimizing employees' loss of pay and other  
3872 benefits resulting from their participation in the criminal justice process. Officers of the court  
3873 shall provide these services and shall consider victims' and witnesses' schedules so that  
3874 activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may  
3875 request that the responsible agency intercede with employers or other parties.

3876 (h) Victims and witnesses, particularly children, should have a speedy disposition of  
3877 the entire criminal justice process. All involved public agencies shall establish policies and  
3878 procedures to encourage speedy disposition of criminal cases.

3879 (i) Victims and witnesses have the right to timely notice of judicial proceedings they  
3880 are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies  
3881 have the duty to provide these notifications. Defense counsel and others have the duty to  
3882 provide timely notice to prosecution of any continuances or other changes that may be required.

3883 (j) Victims of sexual offenses have the following rights:

3884 (i) the right to request voluntary testing for themselves for HIV infection as provided in  
3885 Section [76-5-503](#) and to request mandatory testing of the alleged sexual offender for HIV  
3886 infection as provided in Section [76-5-502](#);

3887 (ii) the right to be informed whether a DNA profile was obtained from the testing of  
3888 the rape kit evidence or from other crime scene evidence;

3889 (iii) the right to be informed whether a DNA profile developed from the rape kit  
3890 evidence or other crime scene evidence has been entered into the Utah Combined DNA Index  
3891 System;

3892 (iv) the right to be informed whether there is a match between a DNA profile  
3893 developed from the rape kit evidence or other crime scene evidence and a DNA profile  
3894 contained in the Utah Combined DNA Index System, provided that disclosure would not  
3895 impede or compromise an ongoing investigation; and

3896 (v) the right to designate a person of the victim's choosing to act as a recipient of the  
3897 information provided under this Subsection (1)(j) and under Subsections (2) and (3).

3898 (k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency  
3899 communicate with the victim or the victim's designee regarding the status of DNA testing,  
3900 absent a specific request received from the victim or the victim's designee.

3901 (2) The law enforcement agency investigating a sexual offense may:  
3902 (a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the  
3903 request of a victim or the victim's designee and is the designated agency to provide that  
3904 information to the victim or the victim's designee;  
3905 (b) require that the victim's request be in writing; and  
3906 (c) respond to the victim's request with verbal communication, written communication,  
3907 or by email, if an email address is available.

3908 (3) The law enforcement agency investigating a sexual offense has the following  
3909 authority and responsibilities:

3910 (a) If the law enforcement agency determines that DNA evidence will not be analyzed  
3911 in a case where the identity of the perpetrator has not been confirmed, the law enforcement  
3912 agency shall notify the victim or the victim's designee.

3913 (b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence  
3914 or other crime scene evidence from an unsolved sexual assault case, the law enforcement  
3915 agency shall provide written notification of that intention and information on how to appeal the  
3916 decision to the victim or the victim's designee of that intention.

3917 (ii) Written notification under this Subsection (3) shall be made not fewer than 60 days  
3918 prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

3919 (c) A law enforcement agency responsible for providing information under Subsections  
3920 (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the  
3921 victim or the victim's designee, shall advise the victim or the victim's designee of any  
3922 significant changes in the information of which the law enforcement agency is aware.

3923 (d) The law enforcement agency investigating the sexual offense is responsible for  
3924 informing the victim or the victim's designee of the rights established under Subsections  
3925 (1)(j)(ii) through (iv) and (2), and this Subsection (3).

3926 (4) Informational rights of the victim under this chapter are based upon the victim  
3927 providing the current name, address, telephone number, and email address, if an email address  
3928 is available, of the person to whom the information should be provided to the criminal justice  
3929 agencies involved in the case.

3930 Section 87. Section ~~77-37-5~~ is amended to read:  
3931 **77-37-5. Remedies -- District Victims' Rights Committee.**

3932 (1) In each judicial district, the Utah Council on Victims of Crime, established in  
3933 Section [63M-7-601](#), shall appoint a person who shall chair a judicial district victims' rights  
3934 committee consisting of:

- 3935 (a) a county attorney or district attorney;  
3936 (b) a sheriff;  
3937 (c) a corrections field services administrator;  
3938 (d) an appointed victim advocate;  
3939 (e) a municipal attorney;  
3940 (f) a municipal chief of police; and  
3941 (g) other representatives as appropriate.

3942 (2) The committee shall meet at least semiannually to review progress and problems  
3943 related to this chapter, Title 77, Chapter 38, Rights of Crime Victims Act, Title 77, Chapter  
3944 [~~38a~~] [38b](#), Crime Victims Restitution Act, and Utah Constitution Article I, Section 28. Victims  
3945 and other interested parties may submit matters of concern to the victims' rights committee.  
3946 The committee may hold a hearing open to the public on any appropriate matter of concern and  
3947 may publish its findings. These matters shall also be considered at the meetings of the victims'  
3948 rights committee. The committee shall forward minutes of all meetings to the Utah Council on  
3949 Victims of Crime for review and other appropriate action.

3950 (3) If a victims' rights committee is unable to resolve a complaint, it may refer the  
3951 complaint to the Utah Council on Victims of Crime.

3952 (4) The Utah Office for Victims of Crime shall provide materials to local law  
3953 enforcement to inform every victim of a sexual offense of the right to request testing of the  
3954 convicted sexual offender and of the victim as provided in Section [76-5-502](#).

3955 (5) (a) If a person acting under color of state law willfully or wantonly fails to perform  
3956 duties so that the rights in this chapter are not provided, an action for injunctive relief may be  
3957 brought against the individual and the government entity that employs the individual.

3958 (b) For all other violations, if the committee finds a violation of a victim's right, it shall  
3959 refer the matter to the appropriate court for further proceedings consistent with Subsection  
3960 [77-38-11\(2\)](#).

3961 (c) The failure to provide the rights in this chapter or Title 77, Chapter 38, Rights of  
3962 Crime Victims Act, does not constitute cause for a judgment against the state or any

3963 government entity, or any individual employed by the state or any government entity, for  
3964 monetary damages, attorney fees, or the costs of exercising any rights under this chapter.

3965 (6) The person accused of and subject to prosecution for the crime or the act which  
3966 would be a crime if committed by a competent adult, has no standing to make a claim  
3967 concerning any violation of the provisions of this chapter.

3968 Section 88. Section ~~77-38-3~~ is amended to read:

3969 **77-38-3. Notification to victims -- Initial notice, election to receive subsequent**  
3970 **notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact**  
3971 **order.**

3972 (1) Within seven days [~~of the filing of felony criminal charges~~] after the day on which  
3973 felony criminal charges are filed against a defendant, the prosecuting agency shall provide an  
3974 initial notice to reasonably identifiable and locatable victims of the crime contained in the  
3975 charges, except as otherwise provided in this chapter.

3976 (2) The initial notice to the victim of a crime shall provide information about electing  
3977 to receive notice of subsequent important criminal justice hearings listed in Subsections  
3978 ~~77-38-2(5)(a)~~ through (f) and rights under this chapter.

3979 (3) The prosecuting agency shall provide notice to a victim of a crime:

3980 (a) for the important criminal justice hearings, provided in Subsections ~~77-38-2(5)(a)~~  
3981 through (f), which the victim has requested; and

3982 [~~(b) for restitution requests to be submitted as provided in Subsection~~

3983 ~~77-38a-302(5)(d)~~]

3984 (b) for a restitution request to be submitted in accordance with Section ~~77-38b-202~~.

3985 (4) (a) The responsible prosecuting agency may provide initial and subsequent notices  
3986 in any reasonable manner, including telephonically, electronically, orally, or by means of a  
3987 letter or form prepared for this purpose.

3988 (b) In the event of an unforeseen important criminal justice hearing, listed in  
3989 Subsections ~~77-38-2(5)(a)~~ through (f) for which a victim has requested notice, a good faith  
3990 attempt to contact the victim by telephone shall be considered sufficient notice, provided that  
3991 the prosecuting agency subsequently notifies the victim of the result of the proceeding.

3992 (5) (a) The court shall take reasonable measures to ensure that its scheduling practices  
3993 for the proceedings provided in Subsections ~~77-38-2(5)(a)~~ through (f) permit an opportunity for

3994 victims of crimes to be notified.

3995 (b) The court shall ~~[also]~~ consider whether any notification system ~~[it]~~ that the court  
3996 might use to provide notice of judicial proceedings to defendants could be used to provide  
3997 notice of ~~[those same]~~ judicial proceedings to victims of crimes.

3998 (6) A defendant or, if it is the moving party, the Division of Adult Probation and  
3999 Parole, shall give notice to the responsible prosecuting agency of any motion for modification  
4000 of any determination made at any of the important criminal justice hearings provided in  
4001 Subsections 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so  
4002 that the prosecuting agency may comply with ~~[its]~~ the prosecuting agency's notification  
4003 obligation.

4004 (7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and  
4005 Parole for the important criminal justice hearing ~~[provided in]~~ under Subsection 77-38-2(5)(g).

4006 (b) The board may provide notice in any reasonable manner, including telephonically,  
4007 electronically, orally, or by means of a letter or form prepared for this purpose.

4008 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give  
4009 notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through  
4010 (f) only where the victim has responded to the initial notice, requested notice of subsequent  
4011 proceedings, and provided a current address and telephone number if applicable.

4012 (9) To facilitate the payment of restitution and the notice of hearings regarding  
4013 restitution, a victim who seeks restitution and notice of restitution hearings shall provide the  
4014 court with the victim's current address and telephone number.

4015 ~~[(9)]~~ (10) (a) Law enforcement and criminal justice agencies shall refer any requests  
4016 for notice or information about crime victim rights from victims to the responsible prosecuting  
4017 agency.

4018 (b) In a case in which the Board of Pardons and Parole is involved, the responsible  
4019 prosecuting agency shall forward any request for notice ~~[it]~~ the prosecuting agency has received  
4020 from a victim to the Board of Pardons and Parole.

4021 ~~[(10)]~~ (11) In all cases where the number of victims exceeds 10, the responsible  
4022 prosecuting agency may send any notices required under this chapter in ~~[its]~~ the prosecuting  
4023 agency's discretion to a representative sample of the victims.

4024 ~~[(11)]~~ (12) (a) A victim's address, telephone number, and victim impact statement

4025 maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of  
4026 Juvenile Justice Services, Department of Corrections, Utah State Courts, and Board of Pardons  
4027 and Parole, for purposes of providing notice under this section, ~~[is]~~ are classified as protected  
4028 ~~[as provided in]~~ under Subsection 63G-2-305(10).

4029 (b) The victim's address, telephone number, and victim impact statement is available  
4030 only to the following persons or entities in the performance of their duties:

4031 (i) a law enforcement agency, including the prosecuting agency;

4032 (ii) a victims' right committee as provided in Section 77-37-5;

4033 (iii) a governmentally sponsored victim or witness program;

4034 (iv) the Department of Corrections;

4035 (v) the Utah Office for Victims of Crime;

4036 (vi) the Commission on Criminal and Juvenile Justice; ~~[and]~~

4037 (vii) the Utah State Courts; and

4038 ~~[(vii)]~~ (viii) the Board of Pardons and Parole.

4039 ~~[(12)]~~ (13) The notice provisions as provided in this section do not apply to  
4040 misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as  
4041 provided in Section 77-38-2.

4042 ~~[(13)]~~ (14) (a) When a defendant is charged with a felony crime under Sections  
4043 76-5-301 through 76-5-310 regarding kidnapping, human trafficking, and human smuggling;  
4044 Sections 76-5-401 through 76-5-413 regarding sexual offenses; or Section 76-10-1306  
4045 regarding aggravated exploitation of prostitution, the court may, during any court hearing  
4046 where the defendant is present, issue a pretrial criminal no contact order:

4047 (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise  
4048 communicating with the victim directly or through a third party;

4049 (ii) ordering the defendant to stay away from the residence, school, place of  
4050 employment of the victim, and the premises of any of these, or any specified place frequented  
4051 by the victim or any designated family member of the victim directly or through a third party;  
4052 and

4053 (iii) ordering any other relief that the court considers necessary to protect and provide  
4054 for the safety of the victim and any designated family or household member of the victim.

4055 (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a

4056 third degree felony.

4057 (c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no  
4058 contact order that has been issued if the victim can be located with reasonable effort.

4059 (ii) The court shall also transmit the pretrial criminal no contact order to the statewide  
4060 domestic violence network in accordance with Section 78B-7-113.

4061 Section 89. Section 77-38-15 is amended to read:

4062 **77-38-15. Civil action against human traffickers and human smugglers.**

4063 (1) A victim of a person that commits the offense of human trafficking or human  
4064 smuggling under Section 76-5-308, human trafficking of a child under Section 76-5-308.5,  
4065 aggravated human trafficking or aggravated human smuggling under Section 76-5-310, or  
4066 benefitting from human trafficking under Subsection 76-5-309(4) may bring a civil action  
4067 against that person.

4068 (2) (a) The court may award actual damages, compensatory damages, punitive  
4069 damages, injunctive relief, or any other appropriate relief.

4070 (b) The court may award treble damages on proof of actual damages if the court finds  
4071 that the person's acts were willful and malicious.

4072 (3) In an action under this section, the court shall award a prevailing victim reasonable  
4073 attorney fees and costs.

4074 (4) An action under this section shall be commenced no later than 10 years after the  
4075 later of:

4076 (a) the day on which the victim was freed from the human trafficking or human  
4077 smuggling situation;

4078 (b) the day on which the victim attains 18 years ~~[of age]~~ old; or

4079 (c) if the victim was unable to bring an action due to a disability, the day on which the  
4080 victim's disability ends.

4081 (5) The time period described in Subsection (4) is tolled during a period of time when  
4082 the victim fails to bring an action due to the person:

4083 (a) inducing the victim to delay filing the action;

4084 (b) preventing the victim from filing the action; or

4085 (c) threatening and causing duress upon the victim in order to prevent the victim from  
4086 filing the action.

4087 (6) The court shall offset damages awarded to the victim under this section by any  
4088 restitution paid to the victim under Title 77, Chapter ~~[38a]~~ 38b, Crime Victims Restitution Act.

4089 (7) A victim may bring an action described in this section in any court of competent  
4090 jurisdiction where:

4091 (a) a violation described in Subsection (1) occurred;

4092 (b) the victim resides; or

4093 (c) the person that commits the offense resides or has a place of business.

4094 (8) If the victim is deceased or otherwise unable to represent the victim's own interests  
4095 in court, a legal guardian, family member, representative of the victim, or court appointee may  
4096 bring an action under this section on behalf of the victim.

4097 (9) This section does not preclude any other remedy available to the victim under the  
4098 laws of this state or under federal law.

4099 Section 90. Section ~~77-38b-101~~, which is renumbered from Section 77-38a-101 is  
4100 renumbered and amended to read:

4101 **CHAPTER 38b. CRIME VICTIMS RESTITUTION ACT**

4102 **Part 1. General Provisions**

4103 ~~[77-38a-101].~~ **77-38b-101. Title.**

4104 This chapter is known as the "Crime Victims Restitution Act."

4105 Section 91. Section ~~77-38b-102~~, which is renumbered from Section 77-38a-102 is  
4106 renumbered and amended to read:

4107 ~~[77-38a-102].~~ **77-38b-102. Definitions.**

4108 As used in this chapter:

4109 ~~[(1) "Conviction" includes a:]~~

4110 ~~[(a) judgment of guilty;~~

4111 ~~[(b) a plea of guilty; or]~~

4112 ~~[(c) a plea of no contest.]~~

4113 (1) (a) "Conviction" means:

4114 (i) a plea of:

4115 (A) guilty;

4116 (B) guilty with a mental illness; or

4117 (C) no contest; or

- 4118 (ii) a judgment of:  
4119 (A) guilty; or  
4120 (B) guilty with a mental illness.
- 4121 (b) "Conviction" does not include:  
4122 (i) a plea in abeyance until a conviction is entered for the plea in abeyance;  
4123 (ii) a diversion agreement; or  
4124 (iii) an adjudication of a minor for an offense under Section [78A-6-117](#).
- 4125 (2) "Criminal [~~activities~~] conduct" means:  
4126 (a) any misdemeanor or felony offense of which the defendant is convicted; or  
4127 (b) any other criminal [~~conduct~~] behavior for which the defendant admits responsibility  
4128 to the sentencing court with or without an admission of committing the criminal [~~conduct~~]  
4129 behavior.
- 4130 (3) (a) "Defendant" means an individual who has been convicted of, or entered into a  
4131 plea disposition for, [~~a criminal activity~~] criminal conduct.
- 4132 (b) "Defendant" does not include a minor, as defined in Section [78A-6-105](#), who is  
4133 adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 78A, Chapter  
4134 6, Juvenile Court Act.
- 4135 (4) "Department" means the Department of Corrections.
- 4136 (5) [~~"Diversion"~~] "Diversion agreement" means [~~suspending~~] an agreement entered  
4137 into by the prosecuting attorney and the defendant that suspends criminal proceedings [~~prior to~~]  
4138 before conviction on the condition that a defendant agree to participate in a rehabilitation  
4139 program, [~~make~~] pay restitution to the victim, or fulfill some other condition.
- 4140 (6) "Office" means the Office of State Debt Collection created in Section [63A-3-502](#).
- 4141 [~~(6)~~] (7) "Party" means the [~~prosecutor~~]; prosecuting attorney, the defendant, or the  
4142 department involved in a prosecution.
- 4143 [~~(7)~~] "Pecuniary damages" means all demonstrable economic injury, whether or not yet  
4144 incurred, including those which a person could recover in a civil action arising out of the facts  
4145 or events constituting the defendant's criminal activities and includes the fair market value of  
4146 property taken, destroyed, broken, or otherwise harmed, and losses, including lost earnings,  
4147 including those and other travel expenses reasonably incurred as a result of participation in  
4148 criminal proceedings, and medical and other expenses, but excludes punitive or exemplary

4149 ~~damages and pain and suffering.]~~

4150 (8) "Payment schedule" means the same as that term is defined in Section [77-32b-102](#).

4151 (9) (a) "Pecuniary damages" means all demonstrable economic injury, losses, and  
4152 expenses regardless of whether the economic injury, losses, and expenses have yet been  
4153 incurred.

4154 (b) "Pecuniary damages" does not include punitive damages or pain and suffering  
4155 damages.

4156 ~~[(8)]~~ (10) "Plea agreement" means an agreement entered between the ~~[prosecution]~~  
4157 prosecuting attorney and the defendant setting forth the special terms and conditions and  
4158 criminal charges upon which the defendant will enter a plea of guilty or no contest.

4159 ~~[(9)]~~ (11) "Plea disposition" means an agreement entered into between the  
4160 ~~[prosecution]~~ prosecuting attorney and the defendant including a diversion agreement, a plea  
4161 agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a  
4162 plea in any other jurisdiction or where charges are dismissed without a plea.

4163 ~~[(10)]~~ (12) "Plea in abeyance" means an order by a court, upon motion of the  
4164 ~~[prosecution]~~ prosecuting attorney and the defendant, accepting a plea of guilty or of no contest  
4165 from the defendant but not, at that time, entering judgment of conviction against ~~[him]~~ the  
4166 defendant nor imposing sentence upon ~~[him]~~ the defendant on condition that ~~[he]~~ the defendant  
4167 comply with specific conditions as set forth in a plea in abeyance agreement.

4168 ~~[(11)]~~ (13) "Plea in abeyance agreement" means an agreement entered into between the  
4169 ~~[prosecution]~~ prosecuting attorney and the defendant setting forth the specific terms and  
4170 conditions upon which, following acceptance of the agreement by the court, a plea may be held  
4171 in abeyance.

4172 ~~[(12)]~~ "Restitution" means ~~full, partial, or nominal payment for pecuniary damages to a~~  
4173 ~~victim, including prejudgment interest, the accrual of interest from the time of sentencing,~~  
4174 ~~insured damages, reimbursement for payment of a reward, and payment for expenses to a~~  
4175 ~~governmental entity for extradition or transportation and as may be further defined by law.]~~

4176 ~~[(13) (a)]~~ "Reward" means ~~a sum of money:]~~

4177 ~~[(i)]~~ offered to the public for information leading to the arrest and conviction of an  
4178 ~~offender; and]~~

4179 ~~[(ii)]~~ that has been paid to a person or persons who provide this information, except that

4180 ~~the person receiving the payment may not be a codefendant, an accomplice, or a bounty~~  
4181 ~~hunter.]~~

4182 ~~[(b) "Reward" does not include any amount paid in excess of the sum offered to the~~  
4183 ~~public.]~~

4184 ~~[(14) "Screening" means the process used by a prosecuting attorney to terminate~~  
4185 ~~investigative action, proceed with prosecution, move to dismiss a prosecution that has been~~  
4186 ~~commenced, or cause a prosecution to be diverted.]~~

4187 ~~[(15) (a) "Victim" means an individual or entity, including the Utah Office for Victims~~  
4188 ~~of Crime, that the court determines has suffered pecuniary damages as a result of the~~  
4189 ~~defendant's criminal activities.]~~

4190 ~~[(b) "Victim" may not include a codefendant or accomplice.]~~

4191 (14) "Restitution" means the payment of pecuniary damages to a victim.

4192 (15) (a) "Victim" means any person who has suffered pecuniary damages that are  
4193 proximately caused by the criminal conduct of the defendant.

4194 (b) "Victim" includes:

4195 (i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes  
4196 a payment to a victim under Section [63M-7-519](#);

4197 (ii) the estate of a deceased victim; and

4198 (iii) a parent, spouse, or sibling of a victim.

4199 (c) "Victim" does not include a codefendant or accomplice.

4200 Section 92. Section **77-38b-201** is enacted to read:

4201 **Part 2. Determination of Restitution**

4202 **77-38b-201. Law enforcement responsibility for collecting restitution**  
4203 **information.**

4204 A law enforcement agency investigating criminal conduct that would constitute a felony  
4205 or a misdemeanor shall include all information about restitution for any potential victim in the  
4206 investigative report, including information about:

4207 (1) whether a claim for restitution exists;

4208 (2) the basis for the claim; and

4209 (3) the estimated or actual amount of the claim.

4210 Section 93. Section **77-38b-202** is enacted to read:

4211 77-38b-202. Prosecuting attorney responsibility for collecting restitution

4212 **information -- Depositing restitution on behalf of victim.**

4213 (1) If a prosecuting attorney files a criminal charge against a defendant, the prosecuting  
4214 attorney shall:

4215 (a) contact any known victim of the offense for which the criminal charge is filed, or  
4216 person asserting a claim for restitution on behalf of the victim; and

4217 (b) gather the following information from the victim or person:

4218 (i) the name of the victim or person; and

4219 (ii) the actual or estimated amount of restitution.

4220 (2) (a) When a conviction, a diversion agreement, or a plea in abeyance is entered by  
4221 the court, the prosecuting attorney shall provide the court with the information gathered by the  
4222 prosecuting attorney under Subsection (1)(b).

4223 (b) If, at the time of the plea disposition or conviction, the prosecuting attorney does  
4224 not have all the information under Subsection (1)(b), the prosecuting attorney shall provide the  
4225 defendant with:

4226 (i) at the time of plea disposition or conviction, all information under Subsection (1)(b)  
4227 that is reasonably available to the prosecuting attorney; and

4228 (ii) any information under Subsection (1)(b) as the information becomes available to  
4229 the prosecuting attorney.

4230 (c) Nothing in this section shall be construed to prevent a prosecuting attorney, a  
4231 victim, or a person asserting a claim for restitution on behalf of a victim from:

4232 (i) submitting information on, or a request for, restitution to the court within the time  
4233 periods described in Subsection [77-38b-205\(5\)](#); or

4234 (ii) submitting information on, or a request for, restitution for additional or substituted  
4235 victims within the time periods described in Subsection [77-38b-205\(5\)](#).

4236 (3) (a) The prosecuting attorney may be authorized by the appropriate public treasurer  
4237 to deposit restitution collected on behalf of a victim into an interest-bearing account in  
4238 accordance with Title 51, Chapter 7, State Money Management Act, pending the distribution of  
4239 the funds to the victim.

4240 (b) If restitution is deposited into an interest-bearing account under Subsection (3)(a),  
4241 the prosecuting attorney shall:

4242 (i) distribute any interest that accrues in the account to each victim on a pro rata basis;  
4243 and

4244 (ii) if all victims have been made whole and funds remain in the account, distribute any  
4245 remaining funds to the Division of Finance, created in Section [63A-3-101](#), to deposit to the  
4246 Utah Office for Victims of Crime.

4247 (c) Nothing in this section prevents an independent judicial authority from collecting,  
4248 holding, and distributing restitution.

4249 Section 94. Section **77-38b-203** is enacted to read:

4250 **77-38b-203. Department of Corrections responsibility for collecting restitution**  
4251 **information -- Presentence investigation report -- In camera review of victim information.**

4252 (1) In preparing a presentence investigation report described in Section [77-18-103](#), the  
4253 department shall obtain information on restitution from:

4254 (a) the law enforcement agency and the prosecuting attorney; and

4255 (b) any victim of the offense or person asserting a claim for restitution on behalf of the  
4256 victim.

4257 (2) A victim seeking restitution, a prosecuting attorney, or a person asserting a claim  
4258 for restitution on behalf of a victim, shall provide the department with:

4259 (a) all invoices, bills, receipts, and any other evidence of pecuniary damages;

4260 (b) all documentation of any compensation or reimbursement from an insurance  
4261 company or a local, state, or federal agency that is related to the pecuniary damages for the  
4262 offense;

4263 (c) the victim's proof of identification, including the victim's date of birth, social  
4264 security number, driver license number; and

4265 (d) the victim's or the person's contact information, including next of kin if available,  
4266 current home and work address, and telephone number.

4267 (3) In the presentence investigation report, the department shall make every effort to:

4268 (a) itemize any pecuniary damages suffered by the victim;

4269 (b) include a specific statement on the amount of restitution that the department  
4270 recommends for each victim; and

4271 (c) include a victim impact statement that:

4272 (i) provides the name of each victim and any person asserting a claim on behalf of a

4273 victim;

4274 (ii) describes the effect of the offense on the victim and the victim's family;

4275 (iii) describes any physical, mental, or emotional injury suffered by a victim as a result  
4276 of the offense and the seriousness and permanence of the injury;

4277 (iv) describes any change in a victim's personal welfare or familial relationships as a  
4278 result of the offense;

4279 (v) provides any request for mental health services by a victim or a victim's family  
4280 member as a result of the offense; and

4281 (vi) provides any other relevant information regarding the impact of the offense upon a  
4282 victim or the victim's family.

4283 (4) (a) A prosecuting attorney and the department may take steps that are reasonably  
4284 necessary to protect the identity of a victim and the victim's family in information that is  
4285 submitted to the court under this section.

4286 (b) If a defendant seeks to view protected, safeguarded, or confidential information  
4287 about a victim or a victim's family, the court shall review the information in camera.

4288 (c) The court may allow the defendant to view the information under Subsection (4)(b)  
4289 if the court finds that:

4290 (i) the defendant's interest in viewing the information outweighs the victim's or the  
4291 victim's family safety and privacy interests; and

4292 (ii) there are protections in place to safeguard the victim's and the victim's family safety  
4293 and privacy interests.

4294 Section 95. Section **77-38b-204**, which is renumbered from Section 77-38a-204 is  
4295 renumbered and amended to read:

4296 ~~[77-38a-204].~~ **77-38b-204. Financial declaration by defendant.**

4297 (1) (a) The Judicial Council shall design and publish a financial declaration form to be  
4298 completed by a defendant ~~[in a case where the prosecutor has indicated that restitution may be~~  
4299 ~~ordered.] before the sentencing court establishes a payment schedule under Section~~  
4300 77-38b-205.

4301 (b) The financial declaration form shall:

4302 (i) require a defendant to disclose all assets, income, and financial liabilities of the  
4303 defendant, including:

- 4304 (A) real property;
- 4305 (B) vehicles;
- 4306 (C) precious metals or gems;
- 4307 (D) jewelry with a value of \$1,000 or more;
- 4308 (E) other personal property with a value of \$1,000 or more;
- 4309 (F) ~~[bank account balances]~~ the balance of any bank account and the name of the
- 4310 financial institution for the bank account;
- 4311 (G) cash;
- 4312 (H) salary, wages, commission, tips, and business income, including the name of any
- 4313 employer or entity from which the defendant receives a salary, wage, commission, tip, or
- 4314 business income;
- 4315 (I) pensions and annuities;
- 4316 (J) intellectual property;
- 4317 (K) accounts receivable;
- 4318 (L) accounts payable;
- 4319 (M) mortgages, loans, and other debts; and
- 4320 (N) restitution that has been ordered, and not fully paid, in other cases; and
- 4321 (ii) state that a false statement made in the financial declaration form is punishable as a
- 4322 class B misdemeanor under Section [76-8-504](#).
- 4323 ~~[(2) A defendant shall, before sentencing, or earlier if ordered by the court, complete~~
- 4324 ~~the financial declaration described in Subsection (1).]~~
- 4325 (2) After a plea disposition or conviction has been entered but before sentencing, a
- 4326 defendant shall complete the financial declaration form described in Subsection (1).
- 4327 (3) When a civil judgment of restitution or a civil accounts receivable is entered for a
- 4328 defendant on the civil judgment docket under Section [77-18-114](#), the court shall provide the
- 4329 Office of State Debt Collection with the defendant's financial declaration form.
- 4330 Section 96. Section **77-38b-205** is enacted to read:
- 4331 **77-38b-205. Order for restitution.**
- 4332 (1) (a) (i) If a defendant is convicted, as defined in Section [76-3-201](#), the court shall
- 4333 order a defendant, as part of the sentence imposed under Section [76-3-201](#), to pay restitution to
- 4334 all victims;

4335 (A) in accordance with the terms of any plea agreement in the case; or

4336 (B) for the entire amount of pecuniary damages that are proximately caused to each  
4337 victim by the criminal conduct of the defendant.

4338 (ii) In determining the amount of pecuniary damages under Subsection (1)(a)(i)(B), the  
4339 court shall consider all relevant facts to establish an amount that fully compensates a victim for  
4340 all pecuniary damages proximately caused by the criminal conduct of the defendant.

4341 (iii) The court shall enter the determination of the amount of restitution under  
4342 Subsection (1)(a)(ii) as a finding on the record.

4343 (b) If a court enters a plea in abeyance or a diversion agreement for a defendant that  
4344 includes an agreement to pay restitution, the court shall order the defendant to pay restitution in  
4345 accordance with the terms of the plea in abeyance or the diversion agreement.

4346 (2) (a) Upon an order for a defendant to pay restitution under Subsection (1), the court  
4347 shall:

4348 (i) enter an order to establish a criminal accounts receivable as described in Section  
4349 77-32b-103; and

4350 (ii) establish a payment schedule for the criminal accounts receivable as described in  
4351 Section 77-32b-103.

4352 (3) If the defendant objects to the order for restitution or the payment schedule, the  
4353 court shall allow the defendant to have a hearing on the issue, unless the issue is addressed at  
4354 the sentencing hearing for the defendant.

4355 (4) (a) For a defendant who is sentenced after May 5, 2021, if no restitution is ordered  
4356 at sentencing, the court shall schedule a hearing to determine restitution, unless the parties  
4357 waive the hearing in accordance with Subsection (4)(b).

4358 (b) The parties may only waive a hearing under Subsection (4)(a) if:

4359 (i) the parties have stipulated to the amount of restitution owed; or

4360 (ii) the prosecuting attorney certifies that the prosecuting attorney has consulted with  
4361 the victim, including the Utah Office for Victims of Crime, and the defendant owes no  
4362 restitution.

4363 (c) The court may not enter an order for restitution without a statement from the  
4364 prosecuting attorney that the prosecuting attorney has consulted with the victim, including the  
4365 Utah Office for Victims of Crime.

4366 (d) If the court does not enter an order for restitution in a hearing under Subsection  
4367 (4)(a), the court shall:

4368 (i) state, on the record, why the court did not enter an order for restitution; and

4369 (ii) order a continuance of the hearing.

4370 (5) A court shall enter an order for restitution in a defendant's case no later than the  
4371 earlier of:

4372 (a) the termination of the defendant's sentence; or

4373 (b) (i) if the defendant is convicted and imprisoned for a first degree felony, within  
4374 seven years after the day on which the court sentences the defendant for the first degree felony  
4375 conviction;

4376 (ii) except as provided in Subsection (5)(b)(i), and if the defendant is convicted of a  
4377 felony, within three years after the day on which the court sentences the defendant for the  
4378 felony conviction; and

4379 (iii) if the defendant is convicted of a misdemeanor, within one year after the day on  
4380 which the court sentences the defendant for the misdemeanor conviction.

4381 (6) (a) Upon a motion from the prosecuting attorney or the victim, the court may  
4382 modify an existing order of restitution, including the amount of pecuniary damages owed by  
4383 the defendant in the order for restitution, if the prosecuting attorney or the victim shows good  
4384 cause for modifying the order.

4385 (b) A motion under Subsection (6)(a) shall be brought within the time periods  
4386 described in Subsection (5).

4387 Section 97. Section **77-38b-301** is enacted to read:

4388 **Part 3. Civil Accounts Receivables and Civil Judgments for Restitution**

4389 **77-38b-301. Entry of judgment -- Interest -- Civil actions -- Lien -- Delinquency.**

4390 (1) As used in this section, "judgment" means an order for:

4391 (a) a civil judgment of restitution; or

4392 (b) a civil accounts receivable.

4393 (2) (a) If the court has entered a judgment on the civil judgment docket under Section  
4394 [77-18-114](#), the judgment is enforceable under the Utah Rules of Civil Procedure.

4395 (b) (i) Notwithstanding Subsection (2)(a):

4396 (A) a judgment is an obligation that arises out of the defendant's criminal case;

4397 (B) civil enforcement of a judgment shall be construed as a continuation of the  
4398 criminal action for which the judgment arises; and

4399 (C) a judgment is criminal in nature.

4400 (ii) Civil enforcement of a judgment does not divest a defendant of an obligation  
4401 imposed in a criminal action as part of the defendant's punishment for an offense.

4402 (3) (a) Notwithstanding Sections 77-18-114, 78B-2-311, and 78B-5-202, a judgment  
4403 shall expire only upon payment in full, including applicable interest, collection fees, attorney  
4404 fees, and liens that directly result from the judgment.

4405 (b) Interest on a judgment may only accrue from the day on which the judgment is  
4406 entered on the civil judgment docket by the court.

4407 (c) This Subsection (3) applies to all judgments that are not paid in full on or before  
4408 May 12, 2009.

4409 (4) A judgment is considered entered on the civil judgment docket when the judgment  
4410 appears on the civil judgment docket with:

4411 (a) an amount owed by the defendant;

4412 (b) the name of the defendant as the judgment debtor; and

4413 (c) the name of the judgment creditors described in Subsections 77-18-114(1)(c)(iii)  
4414 and (2)(b).

4415 (5) If a civil judgment of restitution becomes delinquent, or is in default, and upon a  
4416 motion from a judgment creditor, the court may order the defendant to appear and show cause  
4417 why the defendant should not be held in contempt under Section 78B-6-317 for the  
4418 delinquency or the default.

4419 Section 98. Section **77-38b-302** is enacted to read:

4420 **77-38b-302. Nondischargability in bankruptcy.**

4421 A civil judgment of restitution and a civil accounts receivable are considered a debt  
4422 from a criminal case that may not be discharged in bankruptcy.

4423 Section 99. Section **77-38b-303** is enacted to read:

4424 **77-38b-303. Civil action by a victim for damages.**

4425 (1) (a) A provision under this part concerning restitution does not limit or impair the  
4426 right of a person injured by a defendant's criminal conduct to sue and recover damages from the  
4427 defendant in a civil action.

4428 (b) A court's finding under Subsection 77-38b-205(1)(a)(iii) may be used in a civil  
4429 action for a defendant's liability to a victim as presumptive proof of the victim's pecuniary  
4430 damages that are proximately caused by the defendant's criminal conduct.

4431 (c) If a conviction in a criminal trial decides the issue of a defendant's liability for  
4432 pecuniary damages suffered by a victim, the issue of the defendant's liability is conclusively  
4433 determined as to the defendant if the issue is involved in a subsequent civil action.

4434 (2) (a) The sentencing court shall credit any payment in favor of the victim in a civil  
4435 action for the defendant's criminal conduct toward the amount of restitution owed by the  
4436 defendant to the victim.

4437 (b) In a civil action, a court shall credit any restitution paid by the defendant to a victim  
4438 for the defendant's criminal conduct towards the victim against any judgment that is in favor of  
4439 the victim for the civil action.

4440 (c) If a victim receives payment from the defendant for the civil action, the victim shall  
4441 provide notice to the sentencing court and the court in the civil action of the payment within 30  
4442 days after the day on which the victim receives the payment.

4443 (d) Nothing in this section shall prevent a defendant from providing proof of payment  
4444 to the court or the office.

4445 (3) (a) If a victim prevails in a civil action against a defendant, the court shall award  
4446 reasonable attorney fees and costs to the victim.

4447 (b) If the defendant prevails in the civil action, the court shall award reasonable costs to  
4448 the defendant if the court finds that the victim brought the civil action for an improper purpose,  
4449 including to harass the defendant or to cause unnecessary delay or needless increase in the cost  
4450 of litigation.

4451 Section 100. Section **77-38b-304**, which is renumbered from Section 77-38a-404 is  
4452 renumbered and amended to read:

4453 ~~[77-38a-404].~~ **77-38b-304. Priority.**

4454 ~~[(1) Restitution payments made pursuant to a court order shall be disbursed to victims~~  
4455 ~~within 60 days of receipt from the defendant by the court or department provided:]~~

4456 (1) The court, or the office, shall disburse a payment for restitution within 60 days after  
4457 the day on which the payment is received from the defendant if:

4458 (a) the victim has complied with Subsection ~~[77-38a-203(1)(b)]~~ 77-38b-203(2);

4459 (b) if the defendant has tendered a negotiable instrument, funds from the financial  
4460 institution are actually received; and

4461 (c) the payment to the victim is at least \$5, unless the payment is the final payment.

4462 ~~[(2) If restitution to more than one person, agency, or entity is required at the same  
4463 time, the department shall establish the following priorities of payment, except as provided in  
4464 Subsection (4):]~~

4465 ~~[(a) the crime victim;]~~

4466 ~~[(b) the Utah Office for Victims of Crime;]~~

4467 ~~[(c) any other government agency which has provided reimbursement to the victim as a  
4468 result of the offender's criminal conduct;]~~

4469 ~~[(d) the person, entity, or governmental agency that has offered and paid a reward  
4470 under Section [77-32a-101](#);~~

4471 ~~[(e) any insurance company which has provided reimbursement to the victim as a result  
4472 of the offender's criminal conduct; and]~~

4473 ~~[(f) any county correctional facility to which the defendant is required to pay restitution  
4474 under Subsection [76-3-201](#)(6).]~~

4475 ~~[(3) Restitution ordered under Subsection (2)(f) is paid after criminal fines and  
4476 surcharges are paid.]~~

4477 ~~[(4) If the offender is required under Section [53-10-404](#) to reimburse the department  
4478 for the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority  
4479 after restitution to the crime victim under Subsection (2)(a).]~~

4480 ~~[(5) All money collected for court-ordered obligations from offenders by the  
4481 department will be applied:]~~

4482 ~~[(a) first, to victim restitution, except the current and past due amount of \$30 per  
4483 month required to be collected by the department under Section [64-13-21](#), if applicable; and]~~

4484 ~~[(b) second, if applicable, to the cost of obtaining a DNA specimen under Subsection  
4485 (4).]~~

4486 ~~[(6) Restitution owed to more than one victim shall be disbursed to each victim  
4487 according to the percentage of each victim's share of the total restitution order.]~~

4488 (2) The court, or the office, shall disburse money collected from a defendant for a  
4489 criminal accounts receivable in the following order of priority:

4490 (a) first, and except as provided in Subsection (4)(b), to restitution owed by the  
4491 defendant in accordance with Subsection (4);

4492 (b) second, to the cost of obtaining a DNA specimen from the defendant as described  
4493 in Subsection (4)(b);

4494 (c) third, to any criminal fine or surcharge owed by the defendant;

4495 (d) fourth, to the cost owed by the defendant for a reward described in Section  
4496 [77-32b-104](#);

4497 (e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization  
4498 and related transportation paid by a county correctional facility under Section [17-50-319](#); and

4499 (f) sixth, to any other cost owed by the defendant.

4500 (3) The office shall disburse money collected from a defendant for a civil accounts  
4501 receivable and civil judgment of restitution in the following order of priority:

4502 (a) first, to any past due amount owed to the department for the monthly supervision  
4503 fee under Subsection [64-13-21\(6\)\(a\)](#);

4504 (b) second, and except as provided in Subsection (4)(b), to restitution owed by the  
4505 defendant in accordance with Subsection (4);

4506 (c) third, to the cost of obtaining a DNA specimen from the defendant in accordance  
4507 with Subsection (4)(b);

4508 (d) fourth, to any criminal fine or surcharge owed by the defendant;

4509 (e) fifth, to the cost owed by the defendant for a reward described in Section  
4510 [77-32b-104](#);

4511 (f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization  
4512 and related transportation paid by a county correctional facility under Section [17-50-319](#); and

4513 (g) seventh, to any other cost owed by the defendant.

4514 (4) (a) If a defendant owes restitution to more than one person or government agency at  
4515 the same time, the court, or the office, shall disburse a payment for restitution in the following  
4516 order of priority:

4517 (i) first, to the victim of the offense;

4518 (ii) second, to the Utah Office for Victims of Crime;

4519 (iii) third, any other government agency that has provided reimbursement to the victim  
4520 as a result of the defendant's criminal conduct; and

4521 (iv) fourth, any insurance company that has provided reimbursement to the victim as a  
4522 result of the defendant's criminal conduct.

4523 (b) If a defendant is required under Section 53-10-404 to reimburse the department for  
4524 the cost of obtaining the defendant's DNA specimen, the reimbursement for the cost of  
4525 obtaining the defendant's DNA specimen is the next priority after restitution to the victim of  
4526 the offense under Subsection (4)(a)(i).

4527 (c) If the defendant is required to pay restitution to more than one victim, restitution  
4528 shall be disbursed to each victim according to the percentage of each victim's share of the total  
4529 order for restitution.

4530 (5) For a criminal accounts receivable, the department shall collect the current and past  
4531 due amount owed by a defendant for the monthly supervision fee under Subsection  
4532 64-13-21(6)(a) until the court enters a civil accounts receivable on the civil judgment docket  
4533 under Section 77-18-114.

4534 Section 101. Section **77-38b-401**, which is renumbered from Section 77-38a-502 is  
4535 renumbered and amended to read:

4536 **Part 4. Enforcement and Collection of Restitution**

4537 ~~[77-38a-502].~~ **77-38b-401. Collection from inmate offenders.**

4538 ~~[In addition to the remedies provided in Section 77-38a-501, the]~~ Upon written request  
4539 of the prosecuting attorney, the victim, or the parole or probation agent for the defendant, the  
4540 department [upon written request of the prosecutor, victim, or parole or probation agent,] shall  
4541 collect restitution from offender funds held by the department [as provided in] under Section  
4542 64-13-23.

4543 Section 102. Section **77-38b-402**, which is renumbered from Section 77-38a-601 is  
4544 renumbered and amended to read:

4545 ~~[77-38a-601].~~ **77-38b-402. Preservation of assets.**

4546 (1) ~~[Prior to or at the time]~~ Before, or at the time, a criminal information, indictment  
4547 charging a violation, or a petition alleging delinquency is filed, or at any time during the  
4548 prosecution of the case, a ~~[prosecutor]~~ prosecuting attorney may, if in the ~~[prosecutor's]~~  
4549 prosecuting attorney's best judgment there is a substantial likelihood that a conviction will be  
4550 obtained and restitution will be ordered in the case, petition the court to:

4551 (a) enter a temporary restraining order, an injunction, or both;

4552 (b) require the execution of a satisfactory performance bond; or

4553 (c) take any other action to preserve the availability of property [~~which~~] that may be  
4554 necessary to satisfy an anticipated [~~restitution order~~] order for restitution.

4555 (2) (a) Upon receiving a request from a [~~prosecutor~~] prosecuting attorney under  
4556 Subsection (1), and after notice to [~~persons~~] a person appearing to have an interest in the  
4557 property and affording [~~them~~] the person an opportunity to be heard, the court may take action  
4558 as requested by the [~~prosecutor~~] prosecuting attorney if the court determines:

4559 (i) there is probable cause to believe that [~~a crime~~] an offense has been committed and  
4560 that the defendant committed [~~it~~] the offense, and that failure to enter the order will likely  
4561 result in the property being sold, distributed, exhibited, destroyed, or removed from the  
4562 jurisdiction of the court, or otherwise be made unavailable for restitution; and

4563 (ii) the need to preserve the availability of the property or prevent [~~its~~] the property's  
4564 sale, distribution, exhibition, destruction, or removal through the entry of the requested order  
4565 outweighs the hardship on any party against whom the order is to be entered.

4566 (b) In a hearing conducted [~~pursuant to~~] in accordance with this section, a court may  
4567 consider reliable hearsay as defined in Utah Rules of Evidence, Rule 1102.

4568 (c) An order for an injunction entered under this section is effective for the period of  
4569 time given in the order.

4570 (3) (a) Upon receiving a request for a temporary restraining order from a [~~prosecutor~~]  
4571 prosecuting attorney under this section, a court may enter a temporary restraining order against  
4572 an owner with respect to specific property without notice or opportunity for a hearing if:

4573 (i) the [~~prosecutor~~] prosecuting attorney demonstrates that there is a substantial  
4574 likelihood that the property with respect to which the order is sought appears to be necessary to  
4575 satisfy an anticipated restitution order under this chapter; and

4576 (ii) provision of notice would jeopardize the availability of the property to satisfy any  
4577 [~~restitution order or judgment~~] judgment or order for restitution.

4578 (b) The temporary order in this Subsection (3) expires [~~not more than 10 days after it~~]  
4579 no later than 10 days after the day on which the temporary order is entered unless extended for  
4580 good cause shown or the party against whom [~~it~~] the temporary order is entered consents to an  
4581 extension.

4582 (4) A hearing concerning an order entered under this section shall be held as soon as

4583 possible, and [~~prior to~~] before the expiration of the temporary order.

4584 Section 103. Section **77-40-102** is amended to read:

4585 **77-40-102. Definitions.**

4586 As used in this chapter:

4587 (1) "Administrative finding" means a decision upon a question of fact reached by an  
4588 administrative agency following an administrative hearing or other procedure satisfying the  
4589 requirements of due process.

4590 (2) "Agency" means a state, county, or local government entity that generates or  
4591 maintains records relating to an investigation, arrest, detention, or conviction for an offense for  
4592 which expungement may be ordered.

4593 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public  
4594 Safety established in Section [53-10-201](#).

4595 (4) "Certificate of eligibility" means a document issued by the bureau stating that the  
4596 criminal record and all records of arrest, investigation, and detention associated with a case that  
4597 is the subject of a petition for expungement is eligible for expungement.

4598 (5) (a) "Clean slate eligible case" means a case:

4599 (i) where, except as provided in Subsection (5)(c), each conviction within the case is:

4600 (A) a misdemeanor conviction for possession of a controlled substance in violation of  
4601 Subsection [58-37-8\(2\)\(a\)\(i\)](#);

4602 (B) a class B or class C misdemeanor conviction; or

4603 (C) an infraction conviction;

4604 (ii) that involves an individual:

4605 (A) whose total number of convictions in Utah state courts, not including infractions,  
4606 traffic offenses, or minor regulatory offenses, does not exceed the limits described in

4607 Subsections [77-40-105\(5\)](#) and (6) without taking into consideration the exception in Subsection  
4608 [77-40-105\(8\)](#); and

4609 (B) against whom no criminal proceedings are pending in the state; and

4610 (iii) for which the following time periods have elapsed from the day on which the case  
4611 is adjudicated:

4612 (A) at least five years for a class C misdemeanor or an infraction;

4613 (B) at least six years for a class B misdemeanor; and

4614 (C) at least seven years for a class A conviction for possession of a controlled  
4615 substance in violation of Subsection 58-37-8(2)(a)(i).

4616 (b) "Clean slate eligible case" includes a case that is dismissed as a result of a  
4617 successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b)  
4618 if:

4619 (i) except as provided in Subsection (5)(c), each charge within the case is:

4620 (A) a misdemeanor for possession of a controlled substance in violation of Subsection  
4621 58-37-8(2)(a)(i);

4622 (B) a class B or class C misdemeanor; or

4623 (C) an infraction;

4624 (ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

4625 (iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed  
4626 from the day on which the case is dismissed.

4627 (c) "Clean slate eligible case" does not include a case:

4628 (i) where the individual is found not guilty by reason of insanity;

4629 (ii) where the case establishes [~~a criminal judgment accounts receivable, as defined in~~  
4630 ~~Section 77-32a-101~~] a criminal accounts receivable, as defined in Section 77-32b-102, that:

4631 (A) has been entered as a [~~civil judgment~~] civil accounts receivable or a civil judgment  
4632 of restitution, as those terms are defined in Section 77-32b-102, and transferred to the Office of  
4633 State Debt Collection under Section 77-18-114; or

4634 (B) has not been satisfied according to court records; or

4635 (iii) that resulted in one or more pleas held in abeyance or convictions for the following  
4636 offenses:

4637 (A) any of the offenses listed in Subsection 77-40-105(2)(a);

4638 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against  
4639 the Person;

4640 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

4641 (D) sexual battery in violation of Section 76-9-702.1;

4642 (E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

4643 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence  
4644 and Reckless Driving;

4645 (G) damage to or interruption of a communication device in violation of Section  
4646 76-6-108;

4647 (H) a domestic violence offense as defined in Section 77-36-1; or

4648 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor  
4649 other than a class A misdemeanor conviction for possession of a controlled substance in  
4650 violation of Subsection 58-37-8(2)(a)(i).

4651 (6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty  
4652 after trial, a plea of guilty, or a plea of nolo contendere.

4653 (7) "Department" means the Department of Public Safety established in Section  
4654 53-1-103.

4655 (8) "Drug possession offense" means an offense under:

4656 (a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i),  
4657 possession of 100 pounds or more of marijuana, any offense enhanced under Subsection  
4658 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a  
4659 controlled substance illegally in the person's body and negligently causing serious bodily injury  
4660 or death of another;

4661 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

4662 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or

4663 (d) any local ordinance which is substantially similar to any of the offenses described  
4664 in this Subsection (8).

4665 (9) "Expunge" means to seal or otherwise restrict access to the individual's record held  
4666 by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

4667 (10) "Jurisdiction" means a state, district, province, political subdivision, territory, or  
4668 possession of the United States or any foreign country.

4669 (11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any  
4670 local ordinance, except:

4671 (a) any drug possession offense;

4672 (b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

4673 (c) Sections 73-18-13 through 73-18-13.6;

4674 (d) those offenses defined in Title 76, Utah Criminal Code; or

4675 (e) any local ordinance that is substantially similar to those offenses listed in

4676 Subsections (11)(a) through (d).

4677 (12) "Petitioner" means an individual applying for expungement under this chapter.

4678 (13) (a) "Traffic offense" means:

4679 (i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41,

4680 Chapter 6a, Traffic Code;

4681 (ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

4682 (iii) Title 73, Chapter 18, State Boating Act; and

4683 (iv) all local ordinances that are substantially similar to those offenses.

4684 (b) "Traffic offense" does not mean:

4685 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

4686 (ii) Sections 73-18-13 through 73-18-13.6; or

4687 (iii) any local ordinance that is substantially similar to the offenses listed in

4688 Subsections (13)(b)(i) and (ii).

4689 Section 104. Section 77-40-105 is amended to read:

4690 **77-40-105. Requirements to apply for a certificate of eligibility to expunge**  
4691 **conviction.**

4692 (1) An individual convicted of an offense may apply to the bureau for a certificate of  
4693 eligibility to expunge the record of conviction as provided in this section.

4694 (2) An individual is not eligible to receive a certificate of eligibility from the bureau if:

4695 (a) the conviction for which expungement is sought is:

4696 (i) a capital felony;

4697 (ii) a first degree felony;

4698 (iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

4699 (iv) felony automobile homicide;

4700 (v) a felony conviction described in Subsection 41-6a-501(2);

4701 (vi) a registerable sex offense as defined in Subsection 77-41-102(17); or

4702 (vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);

4703 (b) a criminal proceeding is pending against the petitioner; or

4704 (c) the petitioner intentionally or knowingly provides false or misleading information  
4705 on the application for a certificate of eligibility.

4706 (3) A petitioner seeking to obtain expungement for a record of conviction is not

4707 eligible to receive a certificate of eligibility from the bureau until all of the following have  
4708 occurred:

4709 (a) the petitioner has paid in full all fines and interest ordered by the court related to the  
4710 conviction for which expungement is sought;

4711 (b) the petitioner has paid in full all restitution ordered by the court [~~pursuant to~~  
4712 ~~Section 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6~~] under  
4713 Section 77-38b-205; and

4714 (c) the following time periods have elapsed from the date the petitioner was convicted  
4715 or released from incarceration, parole, or probation, whichever occurred last, for each  
4716 conviction the petitioner seeks to expunge:

4717 (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a  
4718 felony conviction of Subsection 58-37-8(2)(g);

4719 (ii) seven years in the case of a felony;

4720 (iii) five years in the case of any class A misdemeanor or a felony drug possession  
4721 offense;

4722 (iv) four years in the case of a class B misdemeanor; or

4723 (v) three years in the case of any other misdemeanor or infraction.

4724 (4) When determining whether to issue a certificate of eligibility, the bureau may not  
4725 consider:

4726 (a) a petitioner's pending or previous:

4727 (i) infraction;

4728 (ii) traffic offense;

4729 (iii) minor regulatory offense; or

4730 (iv) clean slate eligible case that was automatically expunged in accordance with  
4731 Section 77-40-114; or

4732 (b) a fine or fee related to an offense described in Subsection (4)(a).

4733 (5) The bureau may not issue a certificate of eligibility if, at the time the petitioner  
4734 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,  
4735 including previously expunged convictions, contains any of the following, except as provided  
4736 in Subsection (8):

4737 (a) two or more felony convictions other than for drug possession offenses, each of

4738 which is contained in a separate criminal episode;

4739 (b) any combination of three or more convictions other than for drug possession  
4740 offenses that include two class A misdemeanor convictions, each of which is contained in a  
4741 separate criminal episode;

4742 (c) any combination of four or more convictions other than for drug possession  
4743 offenses that include three class B misdemeanor convictions, each of which is contained in a  
4744 separate criminal episode; or

4745 (d) five or more convictions other than for drug possession offenses of any degree  
4746 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

4747 (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner  
4748 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,  
4749 including previously expunged convictions, contains any of the following:

4750 (a) three or more felony convictions for drug possession offenses, each of which is  
4751 contained in a separate criminal episode; or

4752 (b) any combination of five or more convictions for drug possession offenses, each of  
4753 which is contained in a separate criminal episode.

4754 (7) If the petitioner's criminal history contains convictions for both a drug possession  
4755 offense and a non drug possession offense arising from the same criminal episode, that criminal  
4756 episode shall be counted as provided in Subsection (5) if any non drug possession offense in  
4757 that episode:

4758 (a) is a felony or class A misdemeanor; or

4759 (b) has the same or a longer waiting period under Subsection (3) than any drug  
4760 possession offense in that episode.

4761 (8) If at least 10 years have elapsed from the date the petitioner was convicted or  
4762 released from incarceration, parole, or probation, whichever occurred last, for all convictions,  
4763 then each eligibility limit defined in Subsection (5) shall be increased by one.

4764 (9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board  
4765 of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned  
4766 crimes pursuant to Section [77-27-5.1](#).

4767 Section 105. Section **78A-2-214** is amended to read:

4768 **78A-2-214. Collection of accounts receivable.**

4769 (1) As used in this section:

4770 (a) "Accounts receivable" means any amount due the state from an entity for which  
4771 payment has not been received by the state agency that is servicing the debt.

4772 (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments,  
4773 fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third  
4774 party claims, sale of goods, sale of services, claims, and damages.

4775 ~~[(2) If the Department of Corrections does not have responsibility under Subsection~~  
4776 ~~77-18-1(9) for collecting an account receivable and if the Office of State Debt Collection does~~  
4777 ~~not have responsibility under Subsection 63A-3-502(6), the district court shall collect the~~  
4778 ~~account receivable.]~~

4779 (2) If a defendant is sentenced before May 5, 2021, and the Department of Corrections,  
4780 or the Office of State Debt Collection, is not responsible for collecting an accounts receivable  
4781 for the defendant, the district court shall collect the accounts receivable for the defendant.

4782 (3) (a) In the juvenile court, money collected by the court from past-due accounts  
4783 receivable may be used to offset system, administrative, legal, and other costs of collection.

4784 (b) The juvenile court shall allocate money collected above the cost of collection on a  
4785 pro rata basis to the various revenue types that generated the accounts receivable.

4786 (4) The interest charge established by the Office of State Debt Collection under  
4787 Subsection 63A-3-502(4)(g)(iii) may not be assessed on an account receivable subject to the  
4788 postjudgment interest rate established by Section 15-1-4.

4789 Section 106. Section 78A-2-231 is amended to read:

4790 **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

4791 (1) As used in this section:

4792 (a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

4793 (b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

4794 (c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

4795 (d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

4796 (e) "Medical cannabis card" means the same as that term is defined in Section

4797 26-61a-102.

4798 (f) "Medical cannabis device" means the same as that term is defined in Section

4799 26-61a-102.

4800 (g) "Qualified medical provider" means the same as that term is defined in Section  
4801 [26-61a-102](#).

4802 (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner  
4803 makes a finding, determination, or otherwise considers an individual's possession or use of  
4804 medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or  
4805 court commissioner may not consider or treat the individual's possession or use any differently  
4806 than the lawful possession or use of any prescribed controlled substance if:

4807 (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production  
4808 Establishments;

4809 (b) the individual's possession or use complies with Subsection [58-37-3.7\(2\)](#) or (3); or

4810 (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah  
4811 Medical Cannabis Act; and

4812 (ii) the individual reasonably complies with the directions of use and dosing guidelines  
4813 determined by the individual's qualified medical provider or through a consultation described  
4814 in Subsection [26-61a-502\(4\)](#) or (5).

4815 (3) Notwithstanding Sections [~~77-18-1~~] [77-18-105](#) and [77-2a-3](#), for probation, release,  
4816 a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah  
4817 Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual  
4818 abstain from the use or possession of medical cannabis, a cannabis product, or a medical  
4819 cannabis device, either directly or through a general prohibition on violating federal law,  
4820 without an exception related to medical cannabis use, if the individual's use or possession  
4821 complies with:

4822 (a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

4823 (b) Subsection [58-37-3.7\(2\)](#) or (3).

4824 Section 107. Section **78B-2-115** is amended to read:

4825 **78B-2-115. Actions by state or other governmental entity.**

4826 Except for the provisions of Section [78B-2-116](#), and the collection of criminal fines,  
4827 fees, and restitution by the Office of State Debt Collection in accordance with [Section  
4828 ~~[63A-3-502](#) and Title 77, Chapter 32a, Criminal Accounts Receivable and Defense Costs]~~  
4829 [Sections 63A-3-502, 77-32b-103, and 77-18-114](#), the limitations in this chapter apply to  
4830 actions brought in the name of or for the benefit of the state or other governmental entity the

4831 same as to actions by private parties.

4832 Section 108. Section **78B-5-502** is amended to read:

4833 **78B-5-502. Definitions.**

4834 As used in this part:

4835 (1) "Civil accounts receivable" means the same as that term is defined in Section  
4836 [77-32b-102](#).

4837 (2) "Civil judgment of restitution" means the same as that term is defined in Section  
4838 [77-32b-102](#).

4839 [~~(1)~~] (3) "Debt" means a legally enforceable monetary obligation or liability of an  
4840 individual, whether arising out of contract, tort, or otherwise.

4841 [~~(2)~~] (4) "Dependent" means the spouse of an individual, and the grandchild or the  
4842 natural or adoptive child of an individual who derives support primarily from that individual.

4843 [~~(3)~~] (5) "Exempt" means protected, and "exemption" means protection from  
4844 subjection to a judicial process to collect an unsecured debt.

4845 [~~(4)~~] (6) "Judicial lien" means a lien on property obtained by judgment or other legal  
4846 process instituted for the purpose of collecting an unsecured debt.

4847 [~~(5)~~] (7) "Levy" means the seizure of property pursuant to any legal process issued for  
4848 the purpose of collecting an unsecured debt.

4849 [~~(6)~~] (8) "Lien" means a judicial, or statutory lien, in property securing payment of a  
4850 debt or performance of an obligation.

4851 [~~(7)~~] (9) "Liquid assets" means deposits, securities, notes, drafts, unpaid earnings not  
4852 otherwise exempt, accrued vacation pay, refunds, prepayments, and other receivables.

4853 [~~(8)~~] (10) "Security interest" means an interest in property created by contract to secure  
4854 payment or performance of an obligation.

4855 [~~(9)~~] (11) "Statutory lien" means a lien arising by force of a statute, but does not  
4856 include a security interest or a judicial lien.

4857 [~~(10)~~] (12) "Value" means fair market value of an individual's interest in property,  
4858 exclusive of valid liens.

4859 Section 109. Section **78B-5-505** is amended to read:

4860 **78B-5-505. Property exempt from execution.**

4861 (1) (a) An individual is entitled to exemption of the following property:

- 4862 (i) a burial plot for the individual and the individual's family;
- 4863 (ii) health aids reasonably necessary to enable the individual or a dependent to work or
- 4864 sustain health;
- 4865 (iii) benefits that the individual or the individual's dependent have received or are
- 4866 entitled to receive from any source because of:
  - 4867 (A) disability;
  - 4868 (B) illness; or
  - 4869 (C) unemployment;
- 4870 (iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the
- 4871 benefits are used by an individual or the individual's dependent to pay for that care;
- 4872 (v) veterans benefits;
- 4873 (vi) money or property received, and rights to receive money or property for child
- 4874 support;
- 4875 (vii) money or property received, and rights to receive money or property for alimony
- 4876 or separate maintenance, to the extent reasonably necessary for the support of the individual
- 4877 and the individual's dependents;
- 4878 (viii) (A) one:
  - 4879 (I) clothes washer and dryer;
  - 4880 (II) refrigerator;
  - 4881 (III) freezer;
  - 4882 (IV) stove;
  - 4883 (V) microwave oven; and
  - 4884 (VI) sewing machine;
- 4885 (B) all carpets in use;
- 4886 (C) provisions sufficient for 12 months actually provided for individual or family use;
- 4887 (D) all wearing apparel of every individual and dependent, not including jewelry or
- 4888 furs; and
- 4889 (E) all beds and bedding for every individual or dependent;
- 4890 (ix) except for works of art held by the debtor as part of a trade or business, works of
- 4891 art:
  - 4892 (A) depicting the debtor or the debtor and the debtor's resident family; or

4893 (B) produced by the debtor or the debtor and the debtor's resident family;  
4894 (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a  
4895 result of bodily injury of the individual or of the wrongful death or bodily injury of another  
4896 individual of whom the individual was or is a dependent to the extent that those proceeds are  
4897 compensatory;

4898 (xi) the proceeds or benefits of any life insurance contracts or policies paid or payable  
4899 to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or  
4900 children of the debtor, provided that the contract or policy has been owned by the debtor for a  
4901 continuous unexpired period of one year;

4902 (xii) the proceeds or benefits of any life insurance contracts or policies paid or payable  
4903 to the spouse or children of the debtor or any trust of which the spouse or children are  
4904 beneficiaries upon the death of the debtor, provided that the contract or policy has been in  
4905 existence for a continuous unexpired period of one year;

4906 (xiii) proceeds and avails of any unexpired life insurance contracts owned by the  
4907 debtor or any revocable grantor trust created by the debtor, excluding any payments made on  
4908 the contract during the one year immediately preceding a creditor's levy or execution;

4909 (xiv) except as provided in Subsection (1)(b), and except for a judgment described in  
4910 Subsection 75-7-503(2)(c), any money or other assets held for or payable to the individual as  
4911 an owner, participant, or beneficiary from or an interest of the individual as an owner,  
4912 participant, or beneficiary in a fund or account, including an inherited fund or account, in a  
4913 retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a),  
4914 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a  
4915 participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or  
4916 otherwise;

4917 (xv) the interest of or any money or other assets payable to an alternate payee under a  
4918 qualified domestic relations order as those terms are defined in Section 414(p), Internal  
4919 Revenue Code;

4920 (xvi) unpaid earnings of the household of the filing individual due as of the date of the  
4921 filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family  
4922 income for the household size of the filing individual as determined by the Utah State Annual  
4923 Median Family Income reported by the United States Census Bureau and as adjusted based

4924 upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid  
4925 earnings are paid more often than once a month or, if unpaid earnings are not paid more often  
4926 than once a month, then in the amount of 1/12 of the Utah State annual median family income  
4927 for the household size of the individual as determined by the Utah State Annual Median Family  
4928 Income reported by the United States Census Bureau and as adjusted based upon the Consumer  
4929 Price Index for All Urban Consumers;

4930 (xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of  
4931 the following:

4932 (A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

4933 (B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

4934 (C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000  
4935 rounds; and

4936 (xviii) money, not exceeding \$200,000, in the aggregate, that an individual deposits,  
4937 more than 18 months before the day on which the individual files a petition for bankruptcy or  
4938 an action is filed by a creditor against the individual, as applicable, in all tax-advantaged  
4939 accounts for saving for higher education costs on behalf of a particular individual that meets  
4940 the requirements of Section 529, Internal Revenue Code.

4941 (b) (i) Any money, asset, or other interest in a fund or account that is exempt from a  
4942 claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does  
4943 not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a  
4944 direct transfer or eligible rollover to an inherited individual retirement account as defined in  
4945 Section 408(d)(3), Internal Revenue Code.

4946 (ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement  
4947 accounts without regard to the date on which the account was created.

4948 (c) (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

4949 (A) an alternate payee under a qualified domestic relations order, as those terms are  
4950 defined in Section 414(p), Internal Revenue Code; or

4951 (B) amounts contributed or benefits accrued by or on behalf of a debtor within one year  
4952 before the debtor files for bankruptcy, except amounts directly rolled over from other funds  
4953 that are exempt from attachment under this section.

4954 (ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the

4955 secured creditor's interest in proceeds and avails of any matured or unmatured life insurance  
 4956 contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

4957 (2) (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans  
 4958 benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a ~~child~~ victim  
 4959 victim who is a child if the person receiving the benefits has been convicted of a felony sex  
 4960 offense against [a child] the victim and ordered by the [convicting] sentencing court to pay  
 4961 restitution to the victim.

4962 (b) The exemption from execution under this ~~section~~ Subsection (2) shall be  
 4963 reinstated upon payment of the restitution in full.

4964 (3) ~~[Exemptions]~~ The exemptions under this section do not limit items that may be  
 4965 claimed as exempt under Section [78B-5-506](#).

4966 (4) (a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii),  
 4967 (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil  
 4968 judgment of restitution for an individual who is found in contempt under Section [78B-6-317](#).

4969 (b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if  
 4970 the individual's dependent received, or is entitled to receive, the benefits.

4971 Section 110. Section [78B-6-317](#) is amended to read:

4972 **[78B-6-317. Willful failure to pay a civil accounts receivable or a civil judgment of](#)**  
 4973 **[restitution.](#)**

4974 (1) As used in this section:

4975 (a) "Civil accounts receivable" means the same as that term is defined in Section  
 4976 [77-32b-102](#).

4977 (b) "Civil judgment of restitution" means the same as that term is defined in Section  
 4978 [77-32b-102](#).

4979 (c) "Default" means the same as that term is defined in Section [77-32b-102](#).

4980 (d) "Delinquent" means the same as that term is defined in Section [77-32b-102](#).

4981 ~~[(1)] (2)~~ If a [criminal judgment accounts receivable has become delinquent as defined  
 4982 in Section ~~77-32a-101~~] a civil accounts receivable or a civil judgment of restitution, is  
 4983 delinquent or in default, the court, by motion of the [prosecutor] prosecuting attorney, a  
 4984 judgment creditor, [the Office of State Debt Collection,] or on the court's own motion, may  
 4985 order the defendant to appear and show cause why the delinquency or default should not be

4986 treated as contempt of court~~[, as provided in this section]~~ under this section.

4987 ~~[(2)]~~ (3) (a) The moving party or ~~[a court clerk]~~ a clerk of the court shall provide a  
4988 declaration outlining:

4989 (i) the nature of the debt [and the delinquency];

4990 (ii) the way in which the civil accounts receivable or civil judgment of restitution is  
4991 delinquent or in default;

4992 (iii) if the moving party is the Office of State Debt Collection, the attempts that have  
4993 been made to collect the civil accounts receivable or the civil judgment of restitution before  
4994 moving for an order to show cause; and

4995 (iv) if the moving party is not the Office of State Debt Collection, that the defendant  
4996 has failed to comply with any payment agreement that the defendant has with the Office of  
4997 State Debt Collection.

4998 (b) Upon receipt of ~~[that]~~ a declaration under Subsection (3)(a), the court shall:

4999 (i) set the matter for a hearing; and

5000 (ii) provide notice of the hearing to the defendant by mailing notice of the hearing to  
5001 the defendant's last known address and by any other means the court finds likely to provide  
5002 defendant notice of the hearing.

5003 ~~[(i)]~~ (c) If it appears to the court that the defendant is not likely to appear at the hearing,  
5004 the court may issue an arrest warrant with a bail amount reasonably likely to guarantee the  
5005 defendant's appearance.

5006 ~~[(i)]~~ (d) If the defendant is a corporation or an unincorporated association, the court  
5007 shall cite the person authorized to make disbursement from the assets of the corporation or  
5008 association to appear to answer for the alleged contempt.

5009 (3) At the hearing, the defendant is entitled to be:

5010 (a) represented by counsel; and[;]

5011 (b) if the court is considering a period of incarceration as a potential sanction,  
5012 appointed counsel [if the defendant is indigent] if the court determines that the defendant is  
5013 indigent in accordance with Title 78B, Chapter 22, Indigent Defense Act.

5014 (4) To find the defendant in contempt, the court shall find beyond a reasonable doubt  
5015 that the defendant:

5016 (a) was aware of the obligation to pay the [criminal judgment accounts receivable] civil

5017 accounts receivable or the civil judgment of restitution;

5018 (b) had the capacity to [~~pay the criminal judgment accounts receivable in the manner~~  
5019 ~~ordered by the court~~] make a payment towards the civil accounts receivable or the civil  
5020 judgment of restitution; and

5021 (c) [~~did not make a good faith effort to make the payments~~] failed to make a payment  
5022 towards the civil accounts receivable or the civil judgment of restitution.

5023 (5) [~~H~~] Subject to the limitations in Subsections (6) through (8), if the court finds the  
5024 defendant in contempt for nonpayment, the court may impose the sanctions for contempt [as  
5025 provided in] under Section 78B-6-310[~~, subject to the limitations in Subsections (6) through~~  
5026 ~~(8)].~~

5027 (6) If the court imposes a jail sanction for the contempt, the number of jail days may  
5028 not exceed one day for each \$100 of the amount the court finds was contemptuously unpaid[  
5029 ~~up to~~] with a maximum of:

5030 (a) five days for contempt arising from a class B misdemeanor or lesser offense[~~];~~ and

5031 (b) 30 days for a class A misdemeanor or felony offense.

5032 (7) (a) Any jail sanction imposed for contempt under this section shall serve to satisfy  
5033 the [~~criminal judgment account receivable~~] civil accounts receivable at \$100 for each day  
5034 served. [~~Amounts satisfied under this Subsection (7) may not include restitution amounts~~  
5035 ~~ordered by the court in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act.]~~

5036 (b) Subsection (7)(a) does not apply to a civil judgment of restitution.

5037 [~~(8) Any financial penalty authorized by Section 78B-6-310 and ordered by the court~~  
5038 ~~may only become due after the satisfaction of the original criminal account receivable.]~~

5039 (8) A financial penalty ordered by the court under Section 78B-6-310 may only become  
5040 due after the satisfaction of the civil accounts receivable or the civil judgment of restitution.

5041 (9) The order of the court finding the defendant in contempt and ordering sanctions is a  
5042 final appealable order.

5043 Section 111. Section **78B-7-804** is amended to read:

5044 **78B-7-804. Sentencing and continuous protective orders for a domestic violence**  
5045 **offense -- Modification.**

5046 (1) Before a perpetrator who has been convicted of a domestic violence offense may be  
5047 placed on probation, the court shall consider the safety and protection of the victim and any

5048 member of the victim's family or household.

5049 (2) The court may condition probation or a plea in abeyance on the perpetrator's  
5050 compliance with a sentencing protective order that includes:

5051 (a) an order enjoining the perpetrator from threatening to commit or committing acts of  
5052 domestic violence against the victim or other family or household member;

5053 (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or  
5054 otherwise communicating with the victim, directly or indirectly;

5055 (c) an order requiring the perpetrator to stay away from the victim's residence, school,  
5056 place of employment, and the premises of any of these, or a specified place frequented  
5057 regularly by the victim or any designated family or household member;

5058 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm  
5059 or other specified weapon;

5060 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or  
5061 possesses; and

5062 (f) an order imposing any other condition necessary to protect the victim and any other  
5063 designated family or household member or to rehabilitate the perpetrator.

5064 (3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence  
5065 crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of  
5066 continued acts of violence subsequent to the release of a perpetrator who is convicted of  
5067 domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the  
5068 issuance of continuous protective orders under this Subsection (3) because of the need to  
5069 provide ongoing protection for the victim and to be consistent with the purposes of protecting  
5070 victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter 38, Rights of  
5071 Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

5072 (b) If a perpetrator is convicted of a domestic violence offense resulting in a sentence  
5073 of imprisonment, including jail, that is to be served after conviction, the court shall issue a  
5074 continuous protective order at the time of the conviction or sentencing limiting the contact  
5075 between the perpetrator and the victim unless the court determines by clear and convincing  
5076 evidence that the victim does not have a reasonable fear of future harm or abuse.

5077 (c) (i) The court shall notify the perpetrator of the right to request a hearing.

5078 (ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall

5079 hold the hearing at the time determined by the court. The continuous protective order shall be  
5080 in effect while the hearing is being scheduled and while the hearing is pending.

5081 (d) A continuous protective order is permanent in accordance with this Subsection (3)  
5082 and may include:

5083 (i) an order enjoining the perpetrator from threatening to commit or committing acts of  
5084 domestic violence against the victim or other family or household member;

5085 (ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or  
5086 otherwise communicating with the victim, directly or indirectly;

5087 (iii) an order prohibiting the perpetrator from going to the victim's residence, school,  
5088 place of employment, and the premises of any of these, or a specified place frequented  
5089 regularly by the victim or any designated family or other household member;

5090 (iv) an order directing the perpetrator to pay restitution to the victim as may apply, and  
5091 shall be enforced in accordance with Title 77, Chapter ~~38a~~ 38b, Crime Victims Restitution  
5092 Act; and

5093 (v) any other order the court considers necessary to fully protect the victim and  
5094 members of the victim's family or other household member.

5095 (4) A continuous protective order may be modified or dismissed only if the court  
5096 determines by clear and convincing evidence that all requirements of Subsection (3) have been  
5097 met and the victim does not have a reasonable fear of future harm or abuse.

5098 (5) In addition to the process of issuing a continuous protective order described in  
5099 Subsection (3), a district court may issue a continuous protective order at any time if the victim  
5100 files a petition with the court, and after notice and hearing the court finds that a continuous  
5101 protective order is necessary to protect the victim.

5102 Section 112. **Repealer.**

5103 This bill repeals:

5104 Section **76-6-412.5, Property damage caused in the course of committing a theft.**

5105 Section **77-18-1, Suspension of sentence -- Pleas held in abeyance -- Probation --**

5106 **Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and**

5107 **conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic**  
5108 **monitoring.**

5109 Section **77-18-6, Judgment to pay fine or restitution constitutes a lien.**

- 5110 Section [77-27-6](#), Payment of restitution.
- 5111 Section [77-32a-102](#), Creation of criminal judgment account receivable.
- 5112 Section [77-32a-103](#), Past due accounts or payments -- Authority to send to Office
- 5113 **of State Debt Collection independent of probation status -- Expiration.**
- 5114 Section [77-32a-104](#), Delinquency and default as contempt of court.
- 5115 Section [77-32a-105](#), Accounts with balances at termination of probation.
- 5116 Section [77-32a-106](#), Transfer of collection responsibility does not affect probation.
- 5117 Section [77-32a-108](#), Ability to pay considered.
- 5118 Section [77-32a-109](#), Petition for remission of payment of costs.
- 5119 Section [77-38a-201](#), Restitution determination -- Law enforcement duties and
- 5120 **responsibilities.**
- 5121 Section [77-38a-202](#), Restitution determination -- Prosecution duties and
- 5122 **responsibilities.**
- 5123 Section [77-38a-203](#), Restitution determination -- Department of Corrections --
- 5124 **Presentence investigation.**
- 5125 Section [77-38a-301](#), Restitution -- Convicted defendant may be required to pay.
- 5126 Section [77-38a-302](#), Restitution criteria.
- 5127 Section [77-38a-401](#), Entry of judgment -- Interest -- Civil actions -- Lien.
- 5128 Section [77-38a-402](#), Nondischargeability in bankruptcy.
- 5129 Section [77-38a-403](#), Civil action by victim for damages.
- 5130 Section [77-38a-501](#), Default and sanctions.
- 5131 Section 113. **Effective date.**
- 5132 This bill takes effect on July 1, 2021.