

**Representative Brady Brammer** proposes the following substitute bill:

**PROPERTY AND FINANCIAL OFFENSE AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brady Brammer**

Senate Sponsor: Michael K. McKell

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**LONG TITLE**

**General Description:**

This bill concerns penalties and evidence relating to property and financial offenses.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the Sentencing Commission to create and publish for public comment guidelines relating to certain financial and property offenses;
- ▶ increases the penalty for a violation of a written false statement on a financial declaration completed by a defendant;
- ▶ provides that a prosecuting attorney may subpoena certain information regarding property that may be necessary to satisfy a future restitution order, and that a court may consider this information when establishing a defendant's payment schedule on a criminal accounts receivable; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63G-12-402**, as last amended by Laws of Utah 2021, Chapter 402

29 **63M-7-404**, as last amended by Laws of Utah 2021, Chapter 173

30 **76-8-504**, as enacted by Laws of Utah 1973, Chapter 196

31 **77-32b-103**, as enacted by Laws of Utah 2021, Chapter 260

32 **77-38b-204**, as renumbered and amended by Laws of Utah 2021, Chapter 260

33 **77-38b-402**, as renumbered and amended by Laws of Utah 2021, Chapter 260



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

36 Section 1. Section **63G-12-402** is amended to read:

37 **63G-12-402. Receipt of state, local, or federal public benefits -- Verification --**  
38 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

39 (1) (a) Except as provided in Subsection (3) or when exempted by federal law, an  
40 agency or political subdivision of the state shall verify the lawful presence in the United States  
41 of an individual at least 18 years [~~of age~~] old who applies for:

- 42 (i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or
- 43 (ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an  
44 agency or political subdivision of this state.

45 (b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction  
46 Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of  
47 Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United  
48 States of each individual who:

- 49 (i) owns an interest in the contractor that is an unincorporated entity; and
- 50 (ii) engages, or will engage, in a construction trade in Utah as an owner of the  
51 contractor described in Subsection (1)(b)(i).

52 (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or  
53 national origin.

54 (3) Verification of lawful presence under this section is not required for:

- 55 (a) any purpose for which lawful presence in the United States is not restricted by law,  
56 ordinance, or regulation;

- 57 (b) assistance for health care items and services that:
- 58 (i) are necessary for the treatment of an emergency medical condition, as defined in 42
- 59 U.S.C. Sec. 1396b(v)(3), of the individual involved; and
- 60 (ii) are not related to an organ transplant procedure;
- 61 (c) short-term, noncash, in-kind emergency disaster relief;
- 62 (d) public health assistance for immunizations with respect to immunizable diseases
- 63 and for testing and treatment of symptoms of communicable diseases whether or not the
- 64 symptoms are caused by the communicable disease;
- 65 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
- 66 intervention, and short-term shelter, specified by the United States Attorney General, in the
- 67 sole and unreviewable discretion of the United States Attorney General after consultation with
- 68 appropriate federal agencies and departments, that:
- 69 (i) deliver in-kind services at the community level, including through public or private
- 70 nonprofit agencies;
- 71 (ii) do not condition the provision of assistance, the amount of assistance provided, or
- 72 the cost of assistance provided on the income or resources of the individual recipient; and
- 73 (iii) are necessary for the protection of life or safety;
- 74 (f) the exemption for paying the nonresident portion of total tuition as set forth in
- 75 Section [53B-8-106](#);
- 76 (g) an applicant for a license under Section [61-1-4](#), if the applicant:
- 77 (i) is registered with the Financial Industry Regulatory Authority; and
- 78 (ii) files an application with the state Division of Securities through the Central
- 79 Registration Depository;
- 80 (h) a state public benefit to be given to an individual under Title 49, Utah State
- 81 Retirement and Insurance Benefit Act;
- 82 (i) a home loan that will be insured, guaranteed, or purchased by:
- 83 (i) the Federal Housing Administration, the Veterans Administration, or any other
- 84 federal agency; or
- 85 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;
- 86 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
- 87 home loan that does not require verification under Subsection (3)(i);

88 (k) an applicant for a license issued by the Department of Commerce or individual  
89 described in Subsection (1)(b), if the applicant or individual provides the Department of  
90 Commerce:

91 (i) certification, under penalty of perjury, that the applicant or individual is:

92 (A) a United States citizen;

93 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

94 (C) lawfully present in the United States; and

95 (ii) (A) the number assigned to a driver license or identification card issued under Title  
96 53, Chapter 3, Uniform Driver License Act; or

97 (B) the number assigned to a driver license or identification card issued by a state other  
98 than Utah if, as part of issuing the driver license or identification card, the state verifies an  
99 individual's lawful presence in the United States; and

100 (l) an applicant for:

101 (i) an Opportunity scholarship described in Title 53B, Chapter 8, Part 2, Regents'  
102 Scholarship Program;

103 (ii) a New Century scholarship described in Section [53B-8-105](#);

104 (iii) a promise scholarship described in Section [53B-8-303](#); or

105 (iv) a scholarship:

106 (A) for an individual who is a graduate of a high school located within Utah; and

107 (B) administered by an institution of higher education as defined in Section [53B-2-101](#).

108 (4) (a) An agency or political subdivision required to verify the lawful presence in the  
109 United States of an applicant under this section shall require the applicant to certify under  
110 penalty of perjury that:

111 (i) the applicant is a United States citizen; or

112 (ii) the applicant is:

113 (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

114 (B) lawfully present in the United States.

115 (b) The certificate required under this Subsection (4) shall include a statement advising  
116 the signer that providing false information subjects the signer to penalties for perjury.

117 (5) An agency or political subdivision shall verify a certification required under  
118 Subsection (4)(a)(ii) through the federal SAVE program.

119 (6) (a) An individual who knowingly and willfully makes a false, fictitious, or  
120 fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject  
121 to the criminal penalties applicable in this state for:

122 (i) making a written false statement under [~~Subsection 76-8-504(2)~~] Section 76-8-504;

123 and

124 (ii) fraudulently obtaining:

125 (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

126 (B) unemployment compensation under Section 76-8-1301.

127 (b) If the certification constitutes a false claim of United States citizenship under 18  
128 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United  
129 States Attorney General for the applicable district based upon the venue in which the  
130 application was made.

131 (c) If an agency or political subdivision receives verification that a person making an  
132 application for a benefit, service, or license is not a qualified alien, the agency or political  
133 subdivision shall provide the information to the Office of the Attorney General unless  
134 prohibited by federal mandate.

135 (7) An agency or political subdivision may adopt variations to the requirements of this  
136 section that:

137 (a) clearly improve the efficiency of or reduce delay in the verification process; or

138 (b) provide for adjudication of unique individual circumstances where the verification  
139 procedures in this section would impose an unusual hardship on a legal resident of Utah.

140 (8) It is unlawful for an agency or a political subdivision of this state to provide a state,  
141 local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

142 (9) A state agency or department that administers a program of state or local public  
143 benefits shall:

144 (a) provide an annual report to the governor, the president of the Senate, and the  
145 speaker of the House regarding its compliance with this section; and

146 (b) (i) monitor the federal SAVE program for application verification errors and  
147 significant delays;

148 (ii) provide an annual report on the errors and delays to ensure that the application of  
149 the federal SAVE program is not erroneously denying a state or local benefit to a legal resident

150 of the state; and

151 (iii) report delays and errors in the federal SAVE program to the United States  
152 Department of Homeland Security.

153 Section 2. Section **63M-7-404** is amended to read:

154 **63M-7-404. Purpose -- Duties.**

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

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

158 (i) respond to public comment;

159 (ii) relate sentencing practices and correctional resources;

160 (iii) increase equity in criminal sentencing;

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

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

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

165 (i) increase equity in criminal supervision lengths;

166 (ii) respond to public comment;

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

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

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

171 (vi) enhance the discretion of the sentencing judges while preserving the role of the  
172 Board of Pardons and Parole;

173 (c) appropriate, evidence-based probation and parole supervision policies and services  
174 that assist individuals in successfully completing supervision and reduce incarceration rates  
175 from community supervision programs while ensuring public safety, including:

176 (i) treatment and intervention completion determinations based on individualized case  
177 action plans;

178 (ii) measured and consistent processes for addressing violations of conditions of  
179 supervision;

180 (iii) processes that include using positive reinforcement to recognize an individual's

181 progress in supervision;

182 (iv) engaging with social services agencies and other stakeholders who provide  
183 services that meet offender needs; and

184 (v) identifying community violations that may not warrant revocation of probation or  
185 parole.

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

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

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

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

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

- 199 (i) who have violated one or more conditions of probation; and
- 200 (ii) whose probation has been revoked by the court.

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

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

- 205 (i) who have violated a condition of parole; and
- 206 (ii) whose parole has been revoked by the Board of Pardons and Parole.

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

209 (6) The commission shall establish graduated and evidence-based processes to  
210 facilitate the prompt and effective response to an individual's progress in or violation of the  
211 terms of probation or parole by the adult probation and parole section of the Department of

212 Corrections, or other supervision services provider, in order to implement the  
213 recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism  
214 and incarceration, including:

215 (a) responses to be used when an individual violates a condition of probation or parole;

216 (b) responses to recognize positive behavior and progress related to an individual's case  
217 action plan;

218 (c) when a violation of a condition of probation or parole should be reported to the  
219 court or the Board of Pardons and Parole; and

220 (d) a range of sanctions that may not exceed a period of incarceration of more than:

221 (i) three consecutive days; and

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

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

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

227 (b) positive conduct that exceeds those terms.

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

230 (i) nonjudicially adjusted;

231 (ii) placed on diversion;

232 (iii) placed on probation;

233 (iv) placed on community supervision;

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

235 (vi) placed in a secure care facility.

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

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

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

239 (iii) the delinquency history of the juvenile.

240 (c) The guidelines shall include:

241 (i) responses that are swift and certain;

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

243 (iii) responses that target the individual's criminogenic risk and needs; and  
244 (iv) incentives for compliance, including earned discharge credits.  
245 (9) The commission shall establish supervision length guidelines in accordance with  
246 this section before October 1, 2018.

247 (10) (a) The commission shall create sentencing guidelines and supervision length  
248 guidelines for the following financial and property offenses for which a pecuniary loss to a  
249 victim may exceed ~~Ŧ~~ ~~[\$5,000]~~ \$50,000 ~~←Ŧ~~ :

250 (i) securities fraud, Sections [61-1-1](#) and [61-1-21](#);

251 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment  
252 adviser representative, Sections [61-1-3](#) and [61-1-21](#);

253 (iii) offer or sale of unregistered security, Sections [61-1-7](#) and [61-1-21](#);

254 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,

255 Assault and Related Offenses;

256 (v) arson, Section [76-6-102](#);

257 (vi) burglary, Section [76-6-202](#);

258 (vii) theft, Section [76-6-412](#);

259 (viii) forgery, Section [76-6-501](#);

260 (ix) unlawful dealing of property by a fiduciary, Section [76-6-513](#);

261 (x) fraudulent insurance act, Section [76-6-521](#);

262 (xi) computer crimes, Section [76-6-703](#);

263 (xii) mortgage fraud, Sections [76-6-1203](#) and [76-6-1204](#);

264 (xiii) pattern of unlawful activity, Sections [76-10-1603](#) and [76-10-1603.5](#);

265 (xiv) communications fraud, Section [76-10-1801](#);

266 (xv) money laundering, Section [76-10-1904](#); and

267 (xvi) other offenses in the discretion of the commission.

268 (b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix  
269 with proportionate escalating sanctions based on the amount of a victim's loss.

270 (c) On or before August 1, 2022, the commission shall publish for public comment the  
271 guidelines described in Subsection (10)(a).

272 Section 3. Section **76-8-504** is amended to read:

273 **76-8-504. Written false statement.**

274 ~~[A person is guilty of a class B misdemeanor if:]~~

275 (1) ~~[He makes a]~~ An actor commits the offense of written false statement ~~[which he]~~ if:

276 (a) the actor makes a statement that the actor does not believe to be true on or ~~[pursuant~~  
277 ~~to]~~ under a form bearing a notification authorized by law to the effect that false statements  
278 made therein are punishable; or

279 ~~[(2)]~~ (b) [With] with intent to deceive a public servant in the performance of ~~[his]~~ the  
280 public servant's official function, [he] the actor:

281 ~~[(a)]~~ (i) [Makes any] makes a written false statement ~~[which he]~~ that the actor does not  
282 believe to be true; ~~[or]~~

283 ~~[(b)]~~ (ii) [Knowingly] knowingly creates a false impression in a written application for  
284 ~~[any]~~ a pecuniary or other benefit by omitting information necessary to prevent ~~[statements~~  
285 ~~therein]~~ a statement in the application from being misleading; ~~[or]~~

286 ~~[(c)]~~ (iii) [Submits] submits or invites reliance on ~~[any writing which he]~~ a writing that  
287 the actor knows to be lacking in authenticity; or

288 ~~[(d)]~~ (iv) [Submits] submits or invites reliance on ~~[any]~~ a sample, specimen, map,  
289 boundary mark, or other object ~~[which he]~~ that the actor knows to be false.

290 (2) (a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class  
291 B misdemeanor.

292 (b) A violation of Subsection (1) is a third degree felony if the false statement is on a  
293 financial declaration described in Section [77-38b-204](#).

294 ~~[(3)]~~ (3) [No person shall be guilty under this section if he] It is not an offense under  
295 this section if the actor retracts the falsification before it becomes manifest that the falsification  
296 was or would be exposed.

297 Section 4. Section **77-32b-103** is amended to read:

298 **77-32b-103. Establishment of a criminal accounts receivable -- Responsibility --**  
299 **Payment schedule -- Delinquency or default.**

300 (1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or  
301 acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts  
302 receivable for the defendant.

303 (b) The court is not required to create a criminal accounts receivable for the defendant  
304 under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there

305 are no other fines or fees to be assessed against the defendant.

306 (c) Subject to Subsection [77-38b-205](#)(5), if the court does not create a criminal  
307 accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to  
308 establish a criminal accounts receivable for the defendant at the time the court enters an order  
309 for restitution under Section [77-38b-205](#).

310 (2) After establishing a criminal accounts receivable for a defendant, the court shall:

311 (a) if a prison sentence is imposed and not suspended for the defendant:

312 (i) accept any payment for the criminal accounts receivable that is tendered on the date  
313 of sentencing; and

314 (ii) transfer the responsibility of receiving, distributing, and processing payments for  
315 the criminal accounts receivable to the Office of State Debt Collection; and

316 (b) for all other cases:

317 (i) retain the responsibility for receiving, processing, and distributing payments for the  
318 criminal accounts receivable until the court enters a civil accounts receivable or civil judgment  
319 of restitution on the civil judgment docket under Subsection [77-18-114](#)(1) or (2); and

320 (ii) record each payment by the defendant on the case docket.

321 (c) For a criminal accounts receivable that a court retains responsibility for receiving,  
322 processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may  
323 establish rules to require a defendant to pay the cost, or a portion of the cost, that is charged by  
324 a financial institution for the use of a credit or debit card by the defendant to make payments  
325 towards the criminal accounts receivable.

326 (3) (a) Upon entering an order for a criminal accounts receivable, the court shall  
327 establish a payment schedule for the defendant to make payments towards the criminal  
328 accounts receivable.

329 (b) In establishing the payment schedule for the defendant, the court shall consider:

330 (i) the needs of the victim if the criminal accounts receivable includes an order for  
331 restitution under Section [77-38b-205](#);

332 (ii) the financial resources of the defendant, as disclosed in the financial declaration  
333 under Section [77-38b-204](#) or in evidence obtained by subpoena under Subsection  
334 [77-38b-402](#)(1)(b);

335 (iii) the burden that the payment schedule will impose on the defendant regarding the

336 other reasonable obligations of the defendant;

337 (iv) the ability of the defendant to pay restitution on an installment basis or on other  
338 conditions fixed by the court;

339 (v) the rehabilitative effect on the defendant of the payment of restitution and method  
340 of payment; and

341 (vi) any other circumstance that the court determines is relevant.

342 (4) A payment schedule for a criminal accounts receivable does not limit the ability of  
343 a judgment creditor to pursue collection by any means allowable by law.

344 (5) If the court orders restitution under Section 77-38b-205, or makes another financial  
345 decision, after sentencing that increases the total amount owed in a defendant's case, the  
346 defendant's criminal accounts receivable balance shall be adjusted to include any new amount  
347 ordered by the court.

348 (6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as  
349 defined in Section 64-13-1, or the defendant is involuntarily committed under Section  
350 62A-15-631:

351 (i) all payments for a payment schedule shall be suspended for the period of time that  
352 the defendant is incarcerated or involuntarily committed, unless the court, or the board if the  
353 defendant is under the jurisdiction of the board, expressly orders the defendant to make  
354 payments according to the payment schedule; and

355 (ii) the defendant shall provide the court with notice of the incarceration or involuntary  
356 commitment.

357 (b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day  
358 in which the defendant is released from incarceration or commitment.

359 Section 5. Section 77-38b-204 is amended to read:

360 **77-38b-204. Financial declaration by defendant.**

361 (1) (a) The Judicial Council shall design and publish a financial declaration form to be  
362 completed by a defendant before the sentencing court establishes a payment schedule under  
363 Section 77-38b-205.

364 (b) The financial declaration form shall:

365 (i) require a defendant to disclose all assets, income, and financial liabilities of the  
366 defendant, including:

- 367 (A) real property;
- 368 (B) vehicles;
- 369 (C) precious metals or gems;
- 370 (D) jewelry with a value of \$1,000 or more;
- 371 (E) other personal property with a value of \$1,000 or more;
- 372 (F) the balance of any bank account and the name of the financial institution for the
- 373 bank account;
- 374 (G) cash;
- 375 (H) salary, wages, commission, tips, and business income, including the name of any
- 376 employer or entity from which the defendant receives a salary, wage, commission, tip, or
- 377 business income;
- 378 (I) pensions and annuities;
- 379 (J) intellectual property;
- 380 (K) accounts receivable;
- 381 (L) accounts payable;
- 382 (M) mortgages, loans, and other debts; and
- 383 (N) restitution that has been ordered, and not fully paid, in other cases; and
- 384 (ii) state that a false statement made in the financial declaration form is punishable as

385 [~~a class B misdemeanor~~] third degree felony under Section 76-8-504.

386 (2) After a plea disposition or conviction has been entered but before sentencing, a  
387 defendant shall complete the financial declaration form described in Subsection (1).

388 (3) When a civil judgment of restitution or a civil accounts receivable is entered for a  
389 defendant on the civil judgment docket under Section 77-18-114, the court shall provide the  
390 Office of State Debt Collection with the defendant's financial declaration form.

391 Section 6. Section 77-38b-402 is amended to read:

392 **77-38b-402. Preservation of assets.**

393 (1) (a) Before, or at the time, a criminal information, indictment charging a violation,  
394 or a petition alleging delinquency is filed, or at any time during the prosecution of the case, a  
395 prosecuting attorney may, if in the prosecuting attorney's best judgment there is a substantial  
396 likelihood that a conviction will be obtained and restitution will be ordered in the case, petition  
397 the court to:

398           ~~[(a)]~~ (i) enter a temporary restraining order, an injunction, or both;

399           ~~[(b)]~~ (ii) require the execution of a satisfactory performance bond; or

400           ~~[(c)]~~ (iii) take any other action to preserve the availability of property that may be

401 necessary to satisfy an anticipated order for restitution.

402           (b) A prosecuting attorney may subpoena a document, witness, or other evidence that,

403 in the prosecuting attorney's best judgment, may provide evidence relevant to the property

404 described in Subsection (1)(a)(iii).

405           (2) (a) Upon receiving a request from a prosecuting attorney under Subsection (1)(a),

406 and after notice to a person appearing to have an interest in the property and affording the

407 person an opportunity to be heard, the court may take action as requested by the prosecuting

408 attorney if the court determines:

409           (i) there is probable cause to believe that an offense has been committed and that the

410 defendant committed the offense, and that failure to enter the order will likely result in the

411 property being sold, distributed, exhibited, destroyed, or removed from the jurisdiction of the

412 court, or otherwise be made unavailable for restitution; and

413           (ii) the need to preserve the availability of the property or prevent the property's sale,

414 distribution, exhibition, destruction, or removal through the entry of the requested order

415 outweighs the hardship on any party against whom the order is to be entered.

416           (b) In a hearing conducted in accordance with this section, a court may consider

417 reliable hearsay as defined in Utah Rules of Evidence, Rule 1102.

418           (c) An order for an injunction entered under this section is effective for the period of

419 time given in the order.

420           (3) (a) Upon receiving a request for a temporary restraining order from a prosecuting

421 attorney under this section, a court may enter a temporary restraining order against an owner

422 with respect to specific property without notice or opportunity for a hearing if:

423           (i) the prosecuting attorney demonstrates that there is a substantial likelihood that the

424 property with respect to which the order is sought appears to be necessary to satisfy an

425 anticipated restitution order under this chapter; and

426           (ii) provision of notice would jeopardize the availability of the property to satisfy any

427 judgment or order for restitution.

428           (b) The temporary order in this Subsection (3) expires no later than 10 days after the

429 day on which the temporary order is entered unless extended for good cause shown or the party  
430 against whom the temporary order is entered consents to an extension.

431 (4) A hearing concerning an order entered under this section shall be held as soon as  
432 possible, and before the expiration of the temporary order.