

1 **OFFICE OF STATE DEBT COLLECTION AMENDMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Raymond P. Ward**

5 Senate Sponsor: Todd D. Weiler

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions relating to the collection procedures of the Office of State
10 Debt Collection.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires the Office of State Debt Collection (office) to:
- 14 • create and maintain a website that provides a debtor certain information
15 regarding the debtor's debts; and
- 16 • create policies regarding settlement practices;
- 17 ▶ eliminates a report from the office to the courts;
- 18 ▶ requires the office to apply a payment to a debt as directed by a debtor if the
19 payment would eliminate the debt's balance; and
- 20 ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **63A-3-502**, as last amended by Laws of Utah 2021, Chapter 260



28 [77-18-114](#), as enacted by Laws of Utah 2021, Chapter 260

29 [77-38b-304](#), as renumbered and amended by Laws of Utah 2021, Chapter 260

30 ENACTS:

31 [63A-3-502.5](#), Utah Code Annotated 1953



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

34 Section 1. Section **63A-3-502** is amended to read:

35 **63A-3-502. Office of State Debt Collection created -- Duties.**

36 (1) The state and each state agency shall comply with:

37 (a) the requirements of this chapter; and

38 (b) any rules established by the Office of State Debt Collection.

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

40 (3) The office shall:

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

42 (b) assist the Division of Finance to develop consistent policies governing the

43 collection and management of state receivables;

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

45 (i) implementing all appropriate collection methods;

46 (ii) following established receivables guidelines; and

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

48 (d) assist the Division of Finance to develop policies, procedures, and guidelines for

49 accounting, reporting, and collecting money owed to the state;

50 (e) provide information, training, and technical assistance to each state agency on

51 various collection-related topics;

52 (f) write an inclusive receivables management and collection manual for use by each

53 state agency;

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

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

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

57 effective accounts receivable program;

58 (j) identify any state agency that is not making satisfactory progress toward

- 59 implementing collection techniques and improving accounts receivable collections;
- 60 (k) coordinate information, systems, and procedures between each state agency to
61 maximize the collection of past-due accounts receivable;
- 62 (l) establish an automated cash receipt process between each state agency;
- 63 (m) assist the Division of Finance to establish procedures for writing off accounts
64 receivable for accounting and collection purposes;
- 65 (n) establish standard time limits after which an agency will delegate responsibility to
66 collect state receivables to the office or the office's designee;
- 67 (o) be a real party in interest for:
- 68 (i) an account receivable referred to the office by any state agency; and
69 (ii) a civil judgment of restitution entered on a civil judgment docket by a court;
- 70 (p) allocate money collected for a judgment entered on the civil judgment docket under
71 Section [77-18-114](#) in accordance with Sections [51-9-402](#), [63A-3-506](#), and [78A-5-110](#); [and]
- 72 (q) if a criminal accounts receivable is transferred to the office under Subsection
73 [77-32b-103\(2\)\(a\)\(ii\)](#), receive, process, and distribute payments for the criminal accounts
74 receivable[-];
- 75 (r) provide a debtor online access to the debtor's accounts receivable or criminal
76 accounts receivable in accordance with Section [63A-3-502.5](#);
- 77 (s) establish a written policy for each of the following:
- 78 (i) the settling of an accounts receivable, including that a restitution amount may be
79 settled if the victim approves of the settlement;
- 80 (ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if
81 the debtor has a balance on another debt as part of an accounts receivable or criminal accounts
82 receivable;
- 83 (iii) setting a payment deadline for settlement agreements and for obtaining an
84 extension of a settlement agreement deadline; and
- 85 (iv) reducing administrative costs when a settlement has been reached;
- 86 (t) consulting with a state agency on whether:
- 87 (i) the office may agree to a settlement for an amount that is less than the debtor's
88 principal amount; and
- 89 (ii) the state agency may retain authority to negotiate a settlement with a debtor; and

90 (u) provide the terms and conditions of any payment arrangement that the debtor has
91 made with a state agency or the office when:

92 (i) the payment arrangement is created; or

93 (ii) the debtor requests a copy of the terms and conditions.

94 (4) The office may:

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

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

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

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

101 (ii) identify improvements needed to further enhance the state's effectiveness in
102 collecting [its] the state's receivables;

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

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

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

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

111 (i) a fee to cover the administrative costs of collection on accounts administered by the
112 office;

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

115 (iii) an interest charge that is:

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

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

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

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

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

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

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

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

134 (m) enter into written agreements with other governmental agencies to obtain and share
135 information for the purpose of collecting state accounts receivable; and

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

140 (5) The office shall ensure that:

141 (a) a record obtained by the office or a private sector vendor under Subsection (4)(l):

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

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

144 (b) any ~~[person]~~ individual employed by, or formerly employed by, the office or a
145 private sector vendor as referred to in Subsection (4)(l) is subject to:

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

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

150 (6) (a) The office shall collect a civil accounts receivable or a civil judgment of
151 restitution ordered by a court as a result of prosecution for a criminal offense that have been

152 transferred to the office under Subsection 77-18-114(1) or (2).

153 (b) The office may not assess:

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

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

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

159 (a) transfer collection responsibilities to the office or the office's designee according to
160 time limits established by the office;

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

163 (c) use the state's accounts receivable system or develop systems that are adequate to
164 properly account for and report the state's receivables;

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

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

169 (f) bill for and make initial collection efforts of [its] the state agency's receivables up to
170 the time the accounts must be transferred; and

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

173 (8) All interest, fees, and other amounts authorized to be collected by the office under
174 Subsection (4)(g):

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

176 (b) do not require an order from a court for the office to assess or collect;

177 (c) are not compensation for actual pecuniary loss;

178 (d) for a civil accounts receivable:

179 (i) begin to accrue on the day on which the civil accounts receivable is entered on the
180 civil judgment docket under Subsection 77-18-114(1) or (2); and

181 (ii) may be collected as part of the civil accounts receivable;

182 (e) for a civil judgment of restitution:

183 (i) begin to accrue on the day on which the civil judgment of restitution is entered on
184 the civil judgment docket under Subsection 77-18-114(1); and

185 (ii) may be collected as part of the civil judgment of restitution;

186 (f) for all other accounts receivable:

187 (i) begin to accrue on the day on which the accounts receivable is transferred to the
188 office, even if there is no court order on the day on which the accounts receivable is
189 transferred; and

190 (ii) may be collected as part of the accounts receivable; and

191 (g) may be waived by:

192 (i) the office; or

193 (ii) if the interest, fee, or other amount is charged in error, the court.

194 Section 2. Section 63A-3-502.5 is enacted to read:

195 **63A-3-502.5. Debtor's online access to debt amount.**

196 (1) As used in this section, "debt" means:

197 (a) an accounts receivable; or

198 (b) a criminal accounts receivable.

199 (2) On or before December 31, 2022, the office shall provide a debtor who has a debt
200 transferred to the office online access to the debtor's account that identifies:

201 (a) the total balance the debtor owes for a debt;

202 (b) (i) each person to whom the debtor owes a debt; or

203 (ii) if the person's name is redacted by a court or a state agency with authority to redact,
204 another identifier for the debt in place of the person's name;

205 (c) for each person the debtor owes:

206 (i) the debtor's original balance for a debt; and

207 (ii) the debtor's current balance for a debt;

208 (d) the current interest rate for a debt; and

209 (e) the history of:

210 (i) any additional charge added to a debt including:

211 (A) the reason for the charge;

212 (B) the total amount of the charge; and

213 (C) the date the charge was added; and

- 214 (ii) any payment made by the debtor including:
- 215 (A) the debt to which a payment was applied; and
- 216 (B) whether the payment was applied to an administrative cost, accrued interest, the
- 217 principal, or other fee.

218 Section 3. Section **77-18-114** is amended to read:

219 **77-18-114. Unpaid balance at termination of sentence -- Past due account --**
220 **Notice -- Account or judgment paid in full -- Effect of civil accounts receivable and civil**
221 **judgment of restitution.**

222 (1) When a defendant's sentence is terminated by law or by the decision of the court or
223 the board:

224 (a) the board shall provide an accounting of the unpaid balance of the defendant's
225 criminal accounts receivable to the court if the defendant was on parole or incarcerated at the
226 time of termination; and

227 (b) within 90 days after the day on which a defendant's sentence is terminated, the
228 court shall:

229 (i) enter an order for a civil accounts receivable and a civil judgment of restitution for a
230 defendant on the civil judgment docket;

231 (ii) transfer the responsibility of collecting the civil accounts receivable and the civil
232 judgment of restitution to the Office of State Debt Collection; and

233 (iii) identify in the order under this Subsection (1):

234 (A) the Office of State Debt Collection as a judgment creditor for the civil accounts
235 receivable and the civil judgment of restitution; and

236 (B) the victim as a judgment creditor for the civil judgment of restitution.

237 (2) If a criminal accounts receivable for the defendant is more than 90 days past due
238 and the court has ordered that a defendant does not owe restitution to any victim, or the time
239 period in Subsection [77-38b-205\(5\)](#) has passed and the court has not ordered restitution, the
240 court may:

241 (a) enter an order for a civil accounts receivable for the defendant on the civil judgment
242 docket;

243 (b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as
244 a judgment creditor for the civil accounts receivable; and

245 (c) transfer the responsibility of collecting the civil accounts receivable to the Office of
246 State Debt Collection.

247 (3) An order for a criminal accounts receivable is no longer in effect after the court
248 enters an order for a civil accounts receivable or a civil judgment of restitution under
249 Subsection (1) or (2).

250 (4) The court shall provide notice to the Office of State Debt Collection and the
251 prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the
252 civil judgment of restitution.

253 (5) The Office of State Debt Collection shall~~[(a)]~~ notify the court when a civil
254 judgment of restitution or a civil accounts receivable is satisfied~~[; and]~~.

255 ~~[(b) provide the court with an accounting of any distribution made by the Office of~~
256 ~~State Debt Collection for the civil accounts receivable and the civil judgment of restitution.]~~

257 (6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil
258 accounts receivable on the civil judgment docket, or when restitution is recorded as an order
259 for a civil judgment of restitution on the civil judgment docket, the order:

260 (a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

261 (b) may be collected by any means authorized by law for the collection of a civil
262 judgment.

263 (7) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of
264 restitution are not subject to the civil statutes of limitation and expire only upon payment in
265 full.

266 (8) (a) If a defendant asserts that a payment was made to a victim or third party for a
267 civil judgment of restitution, or enters into any other transaction that does not involve the
268 Office of State Debt Collection, and the defendant asserts that the payment results in a credit
269 towards the civil judgment of restitution for the defendant:

270 (i) the defendant shall provide notice to the Office of State Debt Collection and the
271 prosecuting attorney within 30 days after the day on which the payment or other transaction is
272 made; and

273 (ii) the payment may only be credited towards the principal of the civil judgment of
274 restitution and does not affect any other amount owed to the Office of State Debt Collection
275 under Section [63A-3-502](#).

276 (b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party
277 from providing notice of a payment towards a civil judgment of restitution to the Office of
278 State Debt Collection.

279 Section 4. Section **77-38b-304** is amended to read:

280 **77-38b-304. Priority.**

281 (1) The court, or the office, shall disburse a payment for restitution within 60 days after
282 the day on which the payment is received from the defendant if:

283 (a) the victim has complied with Subsection **77-38b-203**(2);

284 (b) if the defendant has tendered a negotiable instrument, funds from the financial
285 institution are actually received; and

286 (c) the payment to the victim is at least \$5, unless the payment is the final payment.

287 (2) The court, or the office, shall disburse money collected from a defendant for a
288 criminal accounts receivable in the following order of priority:

289 (a) first, and except as provided in Subsection (4)(b), to restitution owed by the
290 defendant in accordance with Subsection (4);

291 (b) second, to the cost of obtaining a DNA specimen from the defendant as described
292 in Subsection (4)(b);

293 (c) third, to any criminal fine or surcharge owed by the defendant;

294 (d) fourth, to the cost owed by the defendant for a reward described in Section
295 **77-32b-104**;

296 (e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization,
297 and related transportation paid by a county correctional facility under Section **17-50-319**; and

298 (f) sixth, to any other cost owed by the defendant.

299 (3) ~~[The]~~ Subject to Subsection (5), the office shall disburse money collected from a
300 defendant for a civil accounts receivable and civil judgment of restitution in the following
301 order of priority:

302 (a) first, to any past due amount owed to the department for the monthly supervision
303 fee under Subsection **64-13-21**(6)(a);

304 (b) second, and except as provided in Subsection (4)(b), to restitution owed by the
305 defendant in accordance with Subsection (4);

306 (c) third, to the cost of obtaining a DNA specimen from the defendant in accordance

307 with Subsection (4)(b);

308 (d) fourth, to any criminal fine or surcharge owed by the defendant;

309 (e) fifth, to the cost owed by the defendant for a reward described in Section

310 [77-32b-104](#);

311 (f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization
312 and related transportation paid by a county correctional facility under Section [17-50-319](#); and

313 (g) seventh, to any other cost owed by the defendant.

314 (4) (a) [Hf] Subject to Subsection (5), if a defendant owes restitution to more than one
315 person or government agency at the same time, the court, or the office, shall disburse a
316 payment for restitution in the following order of priority:

317 (i) first, to the victim of the offense;

318 (ii) second, to the Utah Office for Victims of Crime;

319 (iii) third, any other government agency that has provided reimbursement to the victim
320 as a result of the defendant's criminal conduct; and

321 (iv) fourth, any insurance company that has provided reimbursement to the victim as a
322 result of the defendant's criminal conduct.

323 (b) [Hf] Subject to Subsection (5), if a defendant is required under Section [53-10-404](#) to
324 reimburse the department for the cost of obtaining the defendant's DNA specimen, the
325 reimbursement for the cost of obtaining the defendant's DNA specimen is the next priority after
326 restitution to the victim of the offense under Subsection (4)(a)(i).

327 (c) [Hf] Subject to Subsection (5), if the defendant is required to pay restitution to more
328 than one victim, restitution shall be disbursed to each victim according to the percentage of
329 each victim's share of the total order for restitution.

330 (5) The office shall disburse money collected from a defendant to a debt that is a part
331 of a civil accounts receivable or civil judgment of restitution if:

332 (a) a defendant has provided a written request to the office to apply the payment to the
333 debt; and

334 (b) (i) the payment will eliminate the entire balance of the debt, including any interest
335 and fees; or

336 (ii) after reaching a settlement, the payment amount will eliminate the entire agreed
337 upon balance of the debt, including any interest and fees.

338 [~~5~~] (6) For a criminal accounts receivable, the department shall collect the current and
339 past due amount owed by a defendant for the monthly supervision fee under Subsection
340 [64-13-21\(6\)\(a\)](#) until the court enters a civil accounts receivable on the civil judgment docket
341 under Section [77-18-114](#).