

HB0321S01 compared with HB0321

~~deleted text~~ shows text that was in HB0321 but was deleted in HB0321S01.

inserted text shows text that was not in HB0321 but was inserted into HB0321S01.

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Representative Nelson T. Abbott proposes the following substitute bill:

RESTITUTION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to restitution.

Highlighted Provisions:

This bill:

- ▶ clarifies and addresses the preclusive effect of a conviction in a subsequent civil action; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

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AMENDS:

77-38b-303, as enacted by Laws of Utah 2021, Chapter 260

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

Section 1. Section **77-38b-303** is amended to read:

77-38b-303. Civil action by a victim.

(1) ~~[(a)]~~ A provision under this part concerning restitution does not limit or impair the right of a person injured by a defendant's criminal conduct to sue and recover damages from the defendant in a civil action.

~~[(b)]~~ (2) (a) A court's finding on the amount of restitution owed by a defendant under Subsection 77-38b-205(1)(a)(iii) may be used in a civil action ~~[for a]~~ pertaining to the defendant's liability to a victim as presumptive proof of the victim's pecuniary damages that are proximately caused by the defendant's criminal conduct.

~~[(c)]~~ (b) If a conviction in a criminal trial decides the issue of a defendant's liability for pecuniary damages suffered by a victim, the issue of the defendant's liability for pecuniary damages is conclusively determined as to the defendant if the issue is involved in a subsequent civil action.

(c) ~~{A}~~ If a defendant, who is convicted of a {class B or C} misdemeanor ~~{offense or a felony offense,}~~ or felony offense and the conviction is not a plea of no contest, the defendant is precluded from subsequently denying the essential allegations of the offense in a subsequent civil action brought against the defendant for the criminal conduct underlying the offense.

~~[(2)]~~ (3) (a) The sentencing court shall credit any payment in favor of the victim in a civil action for the defendant's criminal conduct toward the amount of restitution owed by the defendant to the victim.

(b) In a civil action, a court shall credit any restitution paid by the defendant to a victim for the defendant's criminal conduct towards the victim against any judgment that is in favor of the victim for the civil action.

(c) If a victim receives payment from the defendant for the civil action, the victim shall provide notice to the sentencing court and the court in the civil action of the payment within 30 days after the day on which the victim receives the payment.

(d) Nothing in this section shall prevent a defendant from providing proof of payment

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to the court or the office.

~~[(3)]~~ (4) (a) If a victim prevails in a civil action against a defendant, the court shall award reasonable attorney fees and costs to the victim.

(b) If the defendant prevails in the civil action, the court shall award reasonable costs to the defendant if the court finds that the victim brought the civil action for an improper purpose, including to harass the defendant or to cause unnecessary delay or needless increase in the cost of litigation.