

1 **CRIMINAL FINANCIAL OBLIGATION AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karianne Lisonbee**

5 Senate Sponsor: Todd D. Weiler

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions regarding financial obligations owed by a defendant as a
10 result of a criminal sentence.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ clarifies the duties of the Office of State Debt Collection in regards to the settlement
15 of an accounts receivable with a restitution amount;
- 16 ▶ addresses fees and interest for an infraction;
- 17 ▶ addresses restitution for a plea in abeyance;
- 18 ▶ addresses a criminal accounts receivable in regards to probation;
- 19 ▶ addresses a payment towards a civil judgment of restitution;
- 20 ▶ amends provisions regarding the collection of information for restitution;
- 21 ▶ amends provisions regarding an order for restitution;
- 22 ▶ clarifies the effect and nature of a civil judgment of restitution and a civil accounts
23 receivable;
- 24 ▶ addresses a civil action or settlement for a defendant's criminal conduct;
- 25 ▶ amends provisions regarding the disbursement of payments towards a criminal
26 accounts receivable, a civil accounts receivable, and a civil judgment of restitution;
- 27 ▶ amends provisions regarding an appeal from a justice court to a district court; and
- 28 ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **63A-3-502**, as last amended by Laws of Utah 2022, Chapter 323

36 **76-3-301**, as last amended by Laws of Utah 2019, Chapter 291

37 **77-2a-1**, as last amended by Laws of Utah 2021, Chapter 260

38 **77-2a-3**, as last amended by Laws of Utah 2022, Chapter 116

39 **77-18-108**, as last amended by Laws of Utah 2022, Chapter 115

40 **77-18-114**, as last amended by Laws of Utah 2022, Chapters 323, 359

41 **77-20-302**, as renumbered and amended by Laws of Utah 2021, Second Special

42 Session, Chapter 4

43 **77-38b-102**, as last amended by Laws of Utah 2022, Chapter 359

44 **77-38b-201**, as enacted by Laws of Utah 2021, Chapter 260

45 **77-38b-205**, as enacted by Laws of Utah 2021, Chapter 260

46 **77-38b-301**, as enacted by Laws of Utah 2021, Chapter 260

47 **77-38b-303**, as last amended by Laws of Utah 2022, Chapter 359

48 **77-38b-304**, as last amended by Laws of Utah 2022, Chapter 323

49 **78A-7-118**, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4

50

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

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

53 **63A-3-502. Office of State Debt Collection created -- Duties.**

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

55 (a) the requirements of this chapter; and

- 56 (b) any rules established by the Office of State Debt Collection.
- 57 (2) There is created the Office of State Debt Collection in the Division of Finance.
- 58 (3) The office shall:
- 59 (a) have overall responsibility for collecting and managing state receivables;
- 60 (b) assist the Division of Finance to develop consistent policies governing the
- 61 collection and management of state receivables;
- 62 (c) oversee and monitor state receivables to ensure that state agencies are:
- 63 (i) implementing all appropriate collection methods;
- 64 (ii) following established receivables guidelines; and
- 65 (iii) accounting for and reporting receivables in the appropriate manner;
- 66 (d) assist the Division of Finance to develop policies, procedures, and guidelines for
- 67 accounting, reporting, and collecting money owed to the state;
- 68 (e) provide information, training, and technical assistance to each state agency on
- 69 various collection-related topics;
- 70 (f) write an inclusive receivables management and collection manual for use by each
- 71 state agency;
- 72 (g) prepare quarterly and annual reports of the state's receivables;
- 73 (h) create or coordinate a state accounts receivable database;
- 74 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
- 75 effective accounts receivable program;
- 76 (j) identify any state agency that is not making satisfactory progress toward
- 77 implementing collection techniques and improving accounts receivable collections;
- 78 (k) coordinate information, systems, and procedures between each state agency to
- 79 maximize the collection of past-due accounts receivable;
- 80 (l) establish an automated cash receipt process between each state agency;
- 81 (m) assist the Division of Finance to establish procedures for writing off accounts
- 82 receivable for accounting and collection purposes;

83 (n) establish standard time limits after which an agency will delegate responsibility to
84 collect state receivables to the office or the office's designee;

85 (o) be a real party in interest for:

86 (i) an account receivable referred to the office by any state agency; and

87 (ii) a civil judgment of restitution entered on a civil judgment docket by a court;

88 (p) allocate money collected for a judgment entered on the civil judgment docket under
89 Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110;

90 (q) if a criminal accounts receivable is transferred to the office under Subsection
91 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts
92 receivable;

93 (r) provide a debtor online access to the debtor's accounts receivable or criminal
94 accounts receivable in accordance with Section 63A-3-502.5;

95 (s) establish a written policy for each of the following:

96 (i) the settling of an accounts receivable, including [~~that a restitution amount may be~~
97 ~~settled~~] any amount of restitution owed to a victim in a civil judgment of restitution if the
98 victim approves of the settlement;

99 (ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if
100 the debtor has a balance on another debt as part of an accounts receivable or criminal accounts
101 receivable;

102 (iii) setting a payment deadline for settlement agreements and for obtaining an
103 extension of a settlement agreement deadline; and

104 (iv) reducing administrative costs when a settlement has been reached;

105 (t) consult with a state agency on whether:

106 (i) the office may agree to a settlement for an amount that is less than the debtor's
107 principal amount; and

108 (ii) the state agency may retain authority to negotiate a settlement with a debtor; and

109 (u) provide the terms and conditions of any payment arrangement that the debtor has

110 made with a state agency or the office when:

111 (i) the payment arrangement is created; or

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

113 (4) The office may:

114 (a) recommend to the Legislature new laws to enhance collection of past-due accounts

115 by state agencies;

116 (b) collect accounts receivables for higher education entities, if the higher education

117 entity agrees;

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

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

120 (ii) identify improvements needed to further enhance the state's effectiveness in

121 collecting the state's receivables;

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

123 (e) perform other appropriate and cost-effective coordinating work directly related to

124 collection of state receivables;

125 (f) obtain access to records and databases of any state agency that are necessary to the

126 duties of the office by following the procedures and requirements of Section [63G-2-206](#),

127 including the financial declaration form described in Section [77-38b-204](#);

128 (g) collect interest and fees related to the collection of receivables under this chapter,

129 and establish, by following the procedures and requirements of Section [63J-1-504](#):

130 (i) a fee to cover the administrative costs of collection on accounts administered by the

131 office;

132 (ii) a late penalty fee that may not be more than 10% of the account receivable on

133 accounts administered by the office;

134 (iii) an interest charge that is:

135 (A) the postjudgment interest rate established by Section [15-1-4](#) in judgments

136 established by the courts; or

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

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

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

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

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

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

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

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

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

159 (5) The office shall ensure that:

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

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

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

163 (b) any individual employed by, or formerly employed by, the office or a private sector

164 vendor as referred to in Subsection (4)(1) is subject to:

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

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

169 (6) (a) The office shall collect a civil accounts receivable or a civil judgment of
170 restitution ordered by a court as a result of prosecution for a criminal offense that have been
171 transferred to the office under Subsection 77-18-114(1) or (2).

172 (b) The office may not assess:

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

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

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

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

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

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

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

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

188 (f) bill for and make initial collection efforts of the state agency's receivables up to the
189 time the accounts must be transferred; and

190 (g) submit quarterly receivable reports to the office that identify the age, collection

191 status, and funding source of each receivable.

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

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

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

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

197 (d) for a civil accounts receivable:

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

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

201 (e) for a civil judgment of restitution:

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

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

205 (f) for all other accounts receivable:

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

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

210 (g) may be waived by:

211 (i) the office; or

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

213 Section 2. Section **76-3-301** is amended to read:

214 **76-3-301. Fines of individuals.**

215 (1) An individual convicted of an offense may be sentenced to pay a fine, not
216 exceeding:

217 (a) \$10,000 for a felony conviction of the first degree or second degree;

- 218 (b) \$5,000 for a felony conviction of the third degree;
- 219 (c) \$2,500 for a class A misdemeanor conviction;
- 220 (d) \$1,000 for a class B misdemeanor conviction;
- 221 (e) \$750 for a class C misdemeanor conviction or infraction conviction; and
- 222 (f) any greater amounts specifically authorized by statute.

223 (2) (a) An individual convicted of a misdemeanor or infraction and sentenced to pay a
224 fine may not be charged by a court:

225 (i) notwithstanding Section 15-1-4, interest on the judgment that in the aggregate is
226 more than 25% of the initial fine; or

227 (ii) that issues an order to show cause under Section 78B-6-317 for failure to pay the
228 fine, interest that is more than 25% of the initial fine.

229 (b) An individual convicted only of an infraction and sentenced to pay a fine may not
230 be charged:

231 (i) by the Office of State Debt Collection, late fees and interest that in the aggregate are
232 more than 25% of the initial fine; or

233 (ii) by a third-party debt contractor of the Office of State Debt Collection, additional
234 fees.

235 (3) Subsection (2) does not apply to a case that includes:

236 (a) victim restitution; or

237 (b) a felony conviction, even if that felony conviction is later reduced.

238 (4) This section does not apply to a corporation, association, partnership, government,
239 or governmental instrumentality.

240 Section 3. Section 77-2a-1 is amended to read:

241 **77-2a-1. Definitions.**

242 As used in this chapter:

243 (1) "Criminal conduct" means the same as that term is defined in Section 77-38b-102.

244 [~~(1)~~] (2) "Pecuniary damages" means the same as that term is defined in Section

245 77-38b-102.

246 ~~[(2)]~~ (3) "Plea in abeyance" means an order by a court, upon motion of the prosecuting
247 attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but
248 not, at that time, entering judgment of conviction against the defendant nor imposing sentence
249 upon the defendant on condition that the defendant comply with specific conditions as set forth
250 in a plea in abeyance agreement.

251 ~~[(3)]~~ (4) "Plea in abeyance agreement" means an agreement entered into between the
252 prosecuting attorney and the defendant setting forth the specific terms and conditions upon
253 which, following acceptance of the agreement by the court, a plea may be held in abeyance.

254 ~~[(4)]~~ (5) "Restitution" means the same as that term is defined in Section 77-38b-102.

255 (6) "Victim" means the same as that term is defined in Section 77-38b-102.

256 Section 4. Section 77-2a-3 is amended to read:

257 **77-2a-3. Manner of entry of plea -- Powers of court.**

258 (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
259 done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.

260 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
261 agreement may be entered into without a personal appearance before a magistrate.

262 (2) A plea in abeyance agreement may provide that the court may, upon finding that the
263 defendant has successfully completed the terms of the agreement:

264 (a) reduce the degree of the offense and enter judgment of conviction and impose
265 sentence for a lower degree of offense; or

266 (b) allow withdrawal of defendant's plea and order the dismissal of the case.

267 (3) (a) Upon finding that a defendant has successfully completed the terms of a plea in
268 abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as
269 provided in the plea in abeyance agreement or as agreed to by all parties.

270 (b) Upon sentencing a defendant for any lesser offense in accordance with a plea in
271 abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of

272 the offense.

273 (4) The court may require the Department of Corrections to assist in the administration
274 of the plea in abeyance agreement as if the defendant were on probation to the court under
275 Section 77-18-105.

276 (5) The terms of a plea in abeyance agreement may include:

277 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
278 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in
279 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a
280 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and
281 which may not exceed in amount the maximum fine and surcharge which could have been
282 imposed upon conviction and sentencing for the same offense;

283 (b) an order that the defendant pay the costs of any remedial or rehabilitative program
284 required by the terms of the agreement; and

285 (c) an order that the defendant comply with any other conditions that could have been
286 imposed as conditions of probation upon conviction and sentencing for the same offense.

287 ~~[(6) (a) The terms of a plea in abeyance shall include an order for a specific amount of
288 restitution that the defendant will pay, as agreed to by the defendant and the prosecuting
289 attorney, unless the prosecuting attorney certifies that:]~~

290 ~~[(i) the prosecuting attorney has consulted with all victims, including the Utah Office
291 for Victims of Crime; and]~~

292 ~~[(ii) the defendant does not owe any restitution.]~~

293 (6) [(b)] (a) The terms of a plea in abeyance shall include:

294 (i) a specific amount of restitution that the defendant will pay, as agreed to by the
295 defendant and the prosecuting attorney;

296 (ii) a certification from the prosecuting attorney that:

297 (A) the prosecuting attorney has consulted with all victims, including the Utah Office
298 for Victims of Crime; and

299 (B) all victims, including the Utah Office for Victims of Crime, are not seeking
300 restitution; or

301 (iii) an agreement between the parties that restitution will be determined by the court at
302 a subsequent hearing in accordance with Section [77-38b-205](#).

303 (b) At a subsequent hearing described in Subsection (6)(a)(iii), the court shall order the
304 defendant, as a modified term of the plea in abeyance, to pay restitution to all victims for the
305 entire amount of pecuniary damages that are proximately caused by the criminal conduct of the
306 defendant.

307 (c) The court shall collect, receive, process, and distribute payments for restitution to
308 the victim, unless otherwise provided by law or by the plea in abeyance agreement.

309 ~~[(c)]~~ (d) If the defendant does not successfully complete the terms of the plea in
310 abeyance, the court shall enter an order for restitution, in accordance with Title 77, Chapter
311 38b, Crime Victims Restitution Act, upon entering a sentence for the defendant.

312 (7) (a) A court may not hold a plea in abeyance without the consent of both the
313 prosecuting attorney and the defendant.

314 (b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

315 (8) No plea may be held in abeyance in any case involving:

316 (a) a sexual offense against ~~[a victim]~~ an individual who is under 14 years old; or

317 (b) a driving under the influence violation under Section [41-6a-502](#), [41-6a-502.5](#),
318 [41-6a-517](#), [41-6a-520](#), [76-5-102.1](#), or [76-5-207](#).

319 Section 5. Section **77-18-108** is amended to read:

320 **77-18-108. Termination, revocation, modification, or extension of probation --**

321 **Violation of probation -- Hearing on violation.**

322 (1) (a) The department shall ~~[notify the court and the prosecuting attorney, in writing]~~
323 send a written notice to the court:

324 (i) when the department is ~~[requesting]~~ recommending termination of supervision for a
325 defendant; or

326 (ii) before a defendant's supervision will be terminated by law.

327 (b) The ~~[notification]~~ written notice under this Subsection (1) shall include:

328 (i) a probation progress report~~[-];~~ and

329 (ii) if the department is responsible for the collection of the defendant's criminal

330 accounts receivable, a summary of the criminal accounts receivable, including the amount of

331 restitution ordered and the amount of restitution that has been paid.

332 (c) (i) Upon receipt of the written notice under Subsection (1)(a), the court shall:

333 (A) file the written notice on the docket; and

334 (B) provide notice to all parties in the criminal case.

335 (ii) A party shall have a reasonable opportunity to respond to the written notice under

336 Subsection (1)(a).

337 ~~[(c)]~~ (d) If a defendant's probation is being terminated, and the defendant's criminal

338 accounts receivable has an unpaid balance or there is any outstanding debt with the department,

339 the department shall ~~[notify]~~ send a written notice to the Office of State Debt Collection [that

340 ~~the defendant's criminal accounts receivable has an unpaid balance or there is an outstanding~~

341 ~~debt with the department.]~~ with a summary of the defendant's criminal accounts receivable,

342 including the amount of restitution ordered and the amount of restitution that has been paid.

343 (2) (a) The court may modify the defendant's probation in accordance with the

344 supervision length guidelines and the graduated and evidence-based responses and graduated

345 incentives developed by the Utah Sentencing Commission under Section [63M-7-404](#).

346 (b) The court may not:

347 (i) extend the length of a defendant's probation, except upon:

348 (A) waiver of a hearing by the defendant; or

349 (B) a hearing and a finding by the court that the defendant has violated the terms of

350 probation;

351 (ii) revoke a defendant's probation, except upon a hearing and a finding by the court

352 that the terms of probation have been violated; or

353 (iii) terminate a defendant's probation before expiration of the probation period until
354 the court;

355 (A) reviews the docket to determine whether the defendant owes a balance on the
356 defendant's criminal accounts receivable; and

357 (B) enters a finding of whether the defendant owes restitution under Section
358 77-38b-205.

359 (c) The court may find under Subsection (2)(b)(iii)(B) that the defendant does not owe
360 restitution if no request for restitution has been filed with the court.

361 (3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in
362 substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act,
363 alleging with particularity facts asserted to constitute violation of the terms of a defendant's
364 probation, the court shall determine if the affidavit or unsworn written declaration establishes
365 probable cause to believe that revocation, modification, or extension of the defendant's
366 probation is justified.

367 (b) (i) If the court determines there is probable cause, the court shall order that the
368 defendant be served with:

369 (A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written
370 declaration; and

371 (B) an order to show cause as to why the defendant's probation should not be revoked,
372 modified, or extended.

373 (ii) The order under Subsection (3)(b)(i)(B) shall:

374 (A) be served upon the defendant at least five days before the day on which the hearing
375 is held;

376 (B) specify the time and place of the hearing; and

377 (C) inform the defendant of the right to be represented by counsel at the hearing, the
378 right to have counsel appointed if the defendant is indigent, and the right to present evidence at
379 the hearing.

380 (iii) The defendant shall show good cause for a continuance of the hearing.
381 (c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or
382 unsworn written declaration.
383 (d) (i) If the defendant denies the allegations of the affidavit or unsworn written
384 declaration, the prosecuting attorney shall present evidence on the allegations.
385 (ii) If the affidavit, or unsworn written declaration, alleges that a defendant is
386 delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall
387 present evidence to establish, by a preponderance of the evidence, that the defendant:
388 (A) was aware of the defendant's obligation to pay the balance of the criminal accounts
389 receivable;
390 (B) failed to pay on the balance of the criminal accounts receivable as ordered by the
391 court; and
392 (C) had the ability to make a payment on the balance of the criminal accounts
393 receivable if the defendant opposes an order to show cause, in writing, and presents evidence
394 that the defendant was unable to make a payment on the balance of the criminal accounts
395 receivable.
396 (e) The persons who have given adverse information on which the allegations are
397 based shall be presented as witnesses subject to questioning by the defendant, unless the court
398 for good cause otherwise orders.
399 (f) At the hearing, the defendant may:
400 (i) call witnesses;
401 (ii) appear and speak in the defendant's own behalf; and
402 (iii) present evidence.
403 (g) (i) After the hearing, the court shall make findings of fact.
404 (ii) Upon a finding that the defendant violated the terms of the defendant's probation,
405 the court may order the defendant's probation terminated, revoked, modified, continued, or
406 reinstated for all or a portion of the original term of probation.

407 (4) (a) (i) Except as provided in Subsection 77-18-105(7), the court may not require a
408 defendant to remain on probation for a period of time that exceeds the length of the defendant's
409 maximum sentence.

410 (ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is
411 revoked and later reinstated, the total time of all periods of probation that the defendant serves,
412 in relation to the same sentence, may not exceed the defendant's maximum sentence.

413 (b) If the court orders a sanction for a defendant who violated terms of probation, the
414 court may:

415 (i) order a period of incarceration that is consistent with the guidelines established by
416 the Utah Sentencing Commission in accordance with Subsection 63M-7-404(4);

417 (ii) order a period of incarceration that deviates from the guidelines with an
418 explanation for the deviation on the record;

419 (iii) order treatment services that are immediately available in the community for a
420 defendant that needs substance abuse or mental health treatment, as determined by a screening
421 and assessment;

422 (iv) execute the sentence previously imposed; or

423 (v) order any other appropriate sanction.

424 (c) If the defendant had, before the imposition of a term of incarceration or the
425 execution of the previously imposed sentence under this section, served time in jail as a term of
426 probation or due to a violation of probation, the time that the defendant served in jail
427 constitutes service of time toward the sentence previously imposed.

428 (5) (a) Any time served by a defendant:

429 (i) outside of confinement after having been charged with a probation violation, and
430 before a hearing to revoke probation, does not constitute service of time toward the total
431 probation term, unless the defendant is exonerated at a hearing to revoke the defendant's
432 probation;

433 (ii) in confinement awaiting a hearing or a decision concerning revocation of the

434 defendant's probation does not constitute service of time toward the total probation term, unless
435 the defendant is exonerated at the hearing to revoke probation; or

436 (iii) in confinement awaiting a hearing or a decision concerning revocation of the
437 defendant's probation constitutes service of time toward a term of incarceration imposed as a
438 result of the revocation of probation or a graduated and evidence-based response imposed
439 under the guidelines established by the Utah Sentencing Commission in accordance with
440 Section 63M-7-404.

441 (b) The running of the probation period is tolled upon:

442 (i) the filing of a report with the court alleging a violation of the terms of the
443 defendant's probation; or

444 (ii) the issuance of an order or a warrant under Subsection (3).

445 Section 6. Section 77-18-114 is amended to read:

446 **77-18-114. Unpaid balance at termination of sentence -- Past due account --**

447 **Notice -- Account or judgment paid in full -- Effect of civil accounts receivable and civil**
448 **judgment of restitution.**

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

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

454 (b) except as provided in Subsection 77-18-118(1)(g), within 90 days after the day on
455 which a defendant's sentence is terminated, the court shall:

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

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

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

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

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

464 (2) If a criminal accounts receivable for the defendant is more than 90 days past due
465 and the court has ordered that a defendant does not owe restitution to any victim, or the time
466 period in Subsection 77-38b-205(5) has passed and the court has not ordered restitution, the
467 court may:

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

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

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

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

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

480 (5) The Office of State Debt Collection shall notify the court when a civil judgment of
481 restitution or a civil accounts receivable is satisfied.

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

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

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

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

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

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

498 (ii) the payment may only be credited towards ~~the principal of~~ the civil judgment of
499 restitution and does not affect any other amount owed to the Office of State Debt Collection
500 under Section 63A-3-502.

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

504 Section 7. Section 77-20-302 is amended to read:

505 **77-20-302. Grounds for detaining defendant while appealing the defendant's**
506 **conviction -- Conditions for release while on appeal.**

507 (1) The court shall order that a defendant who has been found guilty of an offense in a
508 court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an
509 appeal or a petition for a writ of certiorari, be detained, unless the court finds:

510 (a) the appeal raises a substantial question of law or fact likely to result in:

511 (i) reversal;

512 (ii) an order for a new trial; or

513 (iii) a sentence that does not include a term of imprisonment in jail or prison;

514 (b) the appeal is not for the purpose of delay; and

515 (c) by clear and convincing evidence presented by the defendant, that the defendant:

516 (i) is not likely to flee the jurisdiction of the court if released; and

517 (ii) will not pose a danger to the physical, psychological, or financial and economic
518 safety or well-being of any other person or the community if released.

519 (2) (a) If the court makes a finding under Subsection (1) that justifies not detaining the
520 defendant, the court shall order the release of the defendant, subject to only conditions of
521 release that are reasonably available and necessary to reasonably ensure the appearance of the
522 defendant as required and the safety of any other individual, property, and the community.

523 (b) The conditions under Subsection (2)(a) may include conditions described in
524 Subsection [77-20-205\(4\)](#).

525 (c) The court may, in the court's discretion, amend an order granting release to impose
526 additional or different conditions of release.

527 (3) If the defendant is found guilty of an offense in a court not of record and files a
528 timely notice of appeal in accordance with Subsection [~~78A-7-118(1)~~] [78A-7-118\(2\)](#) for a trial
529 de novo, the court shall stay all terms of a sentence, unless at the time of sentencing the judge
530 finds by a preponderance of the evidence that the defendant poses a danger to another person or
531 the community.

532 (4) If a stay is ordered, the court may order postconviction restrictions on the
533 defendant's conduct as appropriate, including:

534 (a) continuation of any pretrial restrictions or orders;

535 (b) sentencing protective orders under Section [78B-7-804](#);

536 (c) drug and alcohol use;

537 (d) use of an ignition interlock; and

538 (e) posting appropriate monetary bail.

539 (5) The provisions of Subsections (3) and (4) do not apply to convictions for an offense
540 under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

541 (6) Any stay authorized by Subsection (3) is lifted upon the dismissal of the appeal by

542 the district court.

543 Section 8. Section **77-38b-102** is amended to read:

544 **77-38b-102. Definitions.**

545 As used in this chapter:

546 (1) "Civil accounts receivable" means the same as that term is defined in Section
547 [77-32b-102](#).

548 (2) "Civil judgment of restitution" means the same as that term is defined in Section
549 [77-32b-102](#).

550 (3) (a) "Conviction" means:

551 (i) a plea of:

552 (A) guilty;

553 (B) guilty with a mental illness; or

554 (C) no contest; or

555 (ii) a judgment of:

556 (A) guilty; or

557 (B) guilty with a mental illness.

558 (b) "Conviction" does not include:

559 (i) a plea in abeyance until a conviction is entered for the plea in abeyance;

560 (ii) a diversion agreement; or

561 (iii) an adjudication of a minor for an offense under Section [80-6-701](#).

562 (4) "Criminal accounts receivable" means the same as that term is defined in Section
563 [77-32b-102](#).

564 (5) "Criminal conduct" means:

565 (a) any misdemeanor or felony offense of which the defendant is convicted; or

566 (b) any other criminal behavior for which the defendant admits responsibility to the
567 [sentencing] court with or without an admission of committing the criminal behavior.

568 (6) (a) "Defendant" means an individual who has been convicted of, or entered into a

569 plea disposition for, criminal conduct.

570 (b) "Defendant" does not include a minor, as defined in Section [80-1-102](#), who is
571 adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80, Chapter 6,
572 Juvenile Justice.

573 (7) "Department" means the Department of Corrections.

574 (8) "Diversion agreement" means an agreement entered into by the prosecuting
575 attorney and the defendant that suspends criminal proceedings before conviction on the
576 condition that a defendant agree to participate in a rehabilitation program, pay restitution to the
577 victim, or fulfill some other condition.

578 (9) "Office" means the Office of State Debt Collection created in Section [63A-3-502](#).

579 ~~[(10) "Party" means the prosecuting attorney, the defendant, or the department
580 involved in a prosecution.]~~

581 ~~[(11)]~~ (10) "Payment schedule" means the same as that term is defined in Section
582 [77-32b-102](#).

583 ~~[(12)]~~ (11) (a) "Pecuniary damages" means all demonstrable economic injury, losses,
584 and expenses regardless of whether the economic injury, losses, and expenses have yet been
585 incurred.

586 (b) "Pecuniary damages" does not include punitive damages or pain and suffering
587 damages.

588 ~~[(13)]~~ (12) "Plea agreement" means an agreement entered between the prosecuting
589 attorney and the defendant setting forth the special terms and conditions and criminal charges
590 upon which the defendant will enter a plea of guilty or no contest.

591 ~~[(14)]~~ (13) "Plea disposition" means an agreement entered into between the
592 prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a
593 plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any
594 other jurisdiction or where charges are dismissed without a plea.

595 ~~[(15)]~~ (14) "Plea in abeyance" means an order by a court, upon motion of the

596 prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the
 597 defendant but not, at that time, entering judgment of conviction against the defendant nor
 598 imposing sentence upon the defendant on condition that the defendant comply with specific
 599 conditions as set forth in a plea in abeyance agreement.

600 ~~[(16)]~~ (15) "Plea in abeyance agreement" means an agreement entered into between the
 601 prosecuting attorney and the defendant setting forth the specific terms and conditions upon
 602 which, following acceptance of the agreement by the court, a plea may be held in abeyance.

603 ~~[(17)]~~ (16) "Restitution" means the payment of pecuniary damages to a victim.

604 ~~[(18)]~~ (17) (a) "Victim" means any person who has suffered pecuniary damages that are
 605 proximately caused by the criminal conduct of the defendant.

606 (b) "Victim" includes:

607 (i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes
 608 a payment to, or on behalf of, a victim under Section [63M-7-519](#);

609 (ii) the estate of a deceased victim; and

610 (iii) a parent, spouse, intimate partner as defined in 18 U.S.C. Sec. 921, child, or
 611 sibling of a victim.

612 (c) "Victim" does not include a codefendant or accomplice.

613 Section 9. Section **77-38b-201** is amended to read:

614 **77-38b-201. Law enforcement responsibility for collecting restitution**
 615 **information.**

616 (1) A law enforcement agency investigating criminal conduct that would constitute a
 617 felony or a misdemeanor shall include ~~[aH]~~ information about restitution for any potential
 618 victim in the investigative report or the citation, including information about~~[:]~~ whether a claim
 619 for restitution may exist.

620 ~~[(1) whether a claim for restitution exists;]~~

621 (2) A law enforcement agency shall also include in the investigative report:

622 (a) the basis for the claim for restitution; and

623 ~~[(3)]~~ (b) the estimated or actual amount of the claim for restitution.

624 Section 10. Section **77-38b-205** is amended to read:

625 **77-38b-205. Order for restitution.**

626 (1) (a) ~~[(1)]~~ If a defendant is convicted, as defined in Section **76-3-201**, the court shall
627 order a defendant, as part of the sentence imposed under Section **76-3-201**, to pay restitution to
628 all victims:

629 ~~[(A)]~~ (i) in accordance with the terms of any plea agreement in the case; or

630 ~~[(B)]~~ (ii) for the entire amount of pecuniary damages that are proximately caused to
631 each victim by the criminal conduct of the defendant.

632 ~~[(ii) In determining the amount of pecuniary damages under Subsection (1)(a)(i)(B),
633 the court shall consider all relevant facts to establish an amount that fully compensates a victim
634 for all pecuniary damages proximately caused by the criminal conduct of the defendant.]~~

635 ~~[(iii) The court shall enter the determination of the amount of restitution under
636 Subsection (1)(a)(ii) as a finding on the record.]~~

637 (b) If a court enters a plea in abeyance or a diversion agreement for a defendant that
638 includes an agreement to pay restitution, the court shall order the defendant to pay restitution to
639 all victims:

640 (i) in accordance with the terms of the plea in abeyance or the diversion agreement~~[-];~~

641 or

642 (ii) if the terms of the plea in abeyance include an agreement between the parties that
643 restitution will be determined by the court as described in Section **77-2a-3**, for the entire
644 amount of pecuniary damages that are proximately caused to each victim by the criminal
645 conduct of the defendant.

646 (c) In determining the amount of pecuniary damages under Subsection (1)(a)(ii) or
647 (b)(ii), the court shall consider all relevant facts to establish an amount that fully compensates a
648 victim for all pecuniary damages proximately caused by the criminal conduct of the defendant.

649 (d) The court shall enter the determination of the amount of restitution under

650 Subsection (1)(a)(ii) or (b)(ii) as a finding on the record.

651 (2) ~~[(a)]~~ Upon an order for a defendant to pay restitution under Subsection (1), the
652 court shall:

653 ~~[(i)]~~ (a) enter an order to establish a criminal accounts receivable as described in
654 Section [77-32b-103](#); and

655 ~~[(ii)]~~ (b) establish a payment schedule for the criminal accounts receivable as described
656 in Section [77-32b-103](#).

657 (3) If the defendant objects to ~~[the order for restitution or the payment schedule]~~ a
658 request for restitution, the court shall allow the defendant to have a hearing on the issue, unless
659 the issue is addressed at the sentencing hearing for the defendant.

660 (4) If a court does not enter an order for restitution at sentencing, the court shall
661 schedule a hearing to enter an order for restitution, unless:

662 (a) the court finds as a matter of law that there is no victim in the case; or

663 (b) the prosecuting attorney certifies to the court, on the record, that:

664 (i) the prosecuting attorney has consulted with all victims, including the Utah Office
665 for Victims of Crime; and

666 (ii) all victims, including the Utah Office for Victims of Crime, are not seeking
667 restitution.

668 ~~[(4)(a) For a defendant who is sentenced after July 1, 2021, if no restitution is ordered~~
669 ~~at sentencing, the court shall schedule a hearing to determine restitution, unless the parties~~
670 ~~waive the hearing in accordance with Subsection (4)(b).]~~

671 ~~[(b) The parties may only waive a hearing under Subsection (4)(a) if:]~~

672 ~~[(i) the parties have stipulated to the amount of restitution owed; or]~~

673 ~~[(ii) the prosecuting attorney certifies that the prosecuting attorney has consulted with~~
674 ~~the victim, including the Utah Office for Victims of Crime, and the defendant owes no~~
675 ~~restitution.]~~

676 ~~[(c) The court may not enter an order for restitution without a statement from the~~

677 prosecuting attorney that the prosecuting attorney has consulted with the victim, including the
678 Utah Office for Victims of Crime.]

679 ~~[(d) If the court does not enter an order for restitution in a hearing under Subsection~~
680 ~~(4)(a), the court shall:]~~

681 ~~[(i) state, on the record, why the court did not enter an order for restitution; and]~~

682 ~~[(ii) order a continuance of the hearing.]~~

683 (5) (a) A court shall enter an order for restitution in a defendant's case no later than the
684 earlier of:

685 ~~[(a)]~~ (i) the termination of the defendant's sentence, including early termination of the
686 defendant's sentence; or

687 ~~[(b)]~~ (ii) ~~[(i)]~~ (A) if the defendant is convicted and imprisoned for a first degree felony,
688 within seven years after the day on which the court sentences the defendant for the first degree
689 felony conviction; or

690 ~~[(ii)]~~ (B) except as provided in Subsection ~~[(5)(b)(i)]~~ (5)(a)(ii)(A), and if the defendant
691 is convicted of a felony, within three years after the day on which the court sentences the
692 defendant for the felony conviction~~;~~ and].

693 ~~[(iii) if the defendant is convicted of a misdemeanor, within one year after the day on~~
694 ~~which the court sentences the defendant for the misdemeanor conviction.]~~

695 (b) A request for restitution that is made within the time period described in Subsection
696 (5)(a) tolls the time for which the court must enter an order for restitution under Subsection
697 (5)(a) but does not extend the term of the defendant's probation or period of incarceration.

698 (6) (a) If a court does not order restitution at sentencing or at a hearing described in
699 Subsection (4), the prosecuting attorney or the victim may file a motion for restitution within
700 the time periods described in Subsection (5).

701 (b) If the defendant receives notice and does not object to a motion for restitution, the
702 court may order restitution without a hearing.

703 (c) If the defendant receives notice and objects to a motion for restitution, the court

704 may schedule a hearing to determine whether restitution should be ordered if the prosecuting
705 attorney or victim shows good cause.

706 ~~[(6)]~~ (7) ~~[(a)]~~ Upon a motion from the prosecuting attorney or the victim within the
707 time periods described in Subsection (5), the court may modify an existing order of restitution,
708 including the amount of pecuniary damages owed by the defendant in the order for restitution,
709 if the prosecuting attorney or the victim shows good cause for modifying the order.

710 ~~[(b) A motion under Subsection (6)(a) shall be brought within the time periods~~
711 ~~described in Subsection (5).]~~

712 Section 11. Section **77-38b-301** is amended to read:

713 **77-38b-301. Entry of a civil judgment of restitution and civil accounts receivable**
714 **-- Continuation of the criminal action -- Interest -- Delinquency.**

715 (1) As used in this section, "civil judgment" means an order for:

716 (a) a civil judgment of restitution; or

717 (b) a civil accounts receivable.

718 (2) ~~[(a)]~~ If the court has entered a civil judgment on the civil judgment docket under
719 Section **77-18-114**, the civil judgment is enforceable under the Utah Rules of Civil Procedure.

720 ~~[(b) (i) Notwithstanding Subsection (2)(a):]~~

721 ~~[(A) a judgment is an obligation that arises out of the defendant's criminal case;]~~

722 ~~[(B) civil enforcement of a judgment shall be construed as a continuation of the~~
723 ~~criminal action for which the judgment arises; and]~~

724 ~~[(C) a judgment is criminal in nature.]~~

725 ~~[(ii) Civil enforcement of a judgment does not divest a defendant of an obligation~~
726 ~~imposed in a criminal action as part of the defendant's punishment for an offense.]~~

727 (3) (a) Notwithstanding Sections **77-18-114**, **78B-2-311**, and **78B-5-202**, a civil
728 judgment shall expire only upon payment in full, including any applicable interest, collection
729 fees, attorney fees, and liens that directly result from the civil judgment.

730 (b) Interest on a civil judgment may only accrue from the day on which the civil

731 judgment is entered on the civil judgment docket by the court.

732 (c) This Subsection (3) applies to all civil judgments that are not paid in full on or
733 before May 12, 2009.

734 (4) A civil judgment is considered entered on the civil judgment docket when the civil
735 judgment appears on the civil judgment docket with:

736 (a) an amount owed by the defendant;

737 (b) the name of the defendant as the judgment debtor; and

738 (c) the name of the judgment creditors described in Subsections 77-18-114(1)(b)(iii)
739 and (2)(b).

740 (5) If a civil judgment [~~of restitution~~] becomes delinquent, or is in default, and upon a
741 motion from a judgment creditor, the court may order the defendant to appear and show cause
742 why the defendant should not be held in contempt under Section 78B-6-317 for the
743 delinquency or the default.

744 (6) Notwithstanding any other provision of law:

745 (a) a civil judgment is an obligation that arises out of a defendant's criminal case;

746 (b) a civil judgment is criminal in nature;

747 (c) the civil enforcement of a civil judgment shall be construed as a continuation of the
748 criminal action for which the civil judgment arises; and

749 (d) the civil enforcement of a civil judgment does not divest a defendant of an
750 obligation imposed as part of the defendant's punishment in a criminal action.

751 Section 12. Section 77-38b-303 is amended to read:

752 **77-38b-303. Effect of civil action or settlement for criminal conduct -- Issue**
753 **preclusion -- Crediting payments.**

754 [~~(1) A provision under this part concerning restitution does not~~]

755 (1) As used in this section:

756 (a) "Civil settlement" or "settlement" means an agreement entered into between a
757 victim and a defendant that settles all the claims that a victim may bring in a civil action

758 against the defendant for the defendant's criminal conduct.

759 (b) "Civil settlement" or "settlement" does not include an agreement that settles a civil
760 judgment of restitution or a civil accounts receivable for a defendant.

761 (2) Nothing in this chapter shall be construed to limit or impair the right of a [person
762 injured by a defendant's criminal conduct] victim to sue and recover damages from the
763 defendant in a civil action.

764 [(2)] (3) (a) A court's finding on the amount of restitution owed by a defendant under
765 Subsection [~~77-38b-205(1)(a)(iii)~~] 77-38b-205(1)(d) may be used in a civil action pertaining to
766 the defendant's liability to a victim as presumptive proof of the victim's pecuniary damages that
767 are proximately caused by the defendant's criminal conduct.

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

772 (c) (i) Except as provided in Subsection [~~(2)(c)(ii)~~] (3)(c)(ii), if a defendant is
773 convicted of a misdemeanor or felony offense, the defendant is precluded from subsequently
774 denying the essential allegations of the offense in a subsequent civil action brought against the
775 defendant for the criminal conduct underlying the offense.

776 (ii) Subsection [~~(2)(c)(i)~~] (3)(c)(i) does not apply if the offense is a class C
777 misdemeanor under Title 41, Chapter 6a, Traffic Code, or the defendant entered a plea of no
778 contest for the offense.

779 (4) If a civil action brought by a victim against a defendant results in a civil judgment
780 for the defendant's criminal conduct or there is a civil settlement entered into between a victim
781 and defendant for the defendant's criminal conduct, the civil judgment or settlement does not
782 limit or preclude:

783 (a) the sentencing court from entering an order of restitution against the defendant in
784 accordance with this chapter; or

785 (b) the civil enforcement of a civil judgment of restitution by the office or the victim.

786 [~~(3)~~] (5) (a) The sentencing court shall credit any payment [in favor of the] made to a
787 victim in a civil action for the defendant's criminal conduct toward the amount of restitution
788 owed by the defendant to the victim.

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

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

795 [~~(d) Nothing in this section shall prevent a defendant from providing proof of payment~~
796 ~~to the court or the office.]~~

797 [~~(4)~~] (6) (a) If a victim prevails in a civil action against a defendant, the court shall
798 award reasonable attorney fees and costs to the victim.

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

803 (7) (a) The sentencing court shall credit any payment made to a victim as part of a civil
804 settlement toward the amount of restitution owed by the defendant to the victim if the
805 sentencing court determines that the payment compensates the victim for pecuniary damages
806 proximately caused by the defendant's criminal conduct.

807 (b) If a victim receives a payment from the defendant as part of a civil settlement, the
808 victim shall provide notice to the sentencing court within 30 days after the day on which the
809 victim receives the payment.

810 (8) Nothing in this section shall prevent a defendant from providing proof of payment
811 to the court or the office.

812 Section 13. Section **77-38b-304** is amended to read:

813 **77-38b-304. Priority of payment disbursement.**

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

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

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

819 (c) the payment to the victim is at least ~~[\$5]~~ \$25, unless the payment is the final
820 payment~~[-]; and~~

821 (d) there is no pending legal issue that would affect an order for restitution or the
822 distribution of restitution.

823 (2) The court~~[-, or the office,]~~ shall disburse money collected from a defendant for a
824 criminal accounts receivable in the following order of priority:

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

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

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

830 (d) fourth, to the cost owed by the defendant for a reward described in Section
831 **77-32b-104**;

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

834 (f) sixth, to any other ~~cost~~ amount owed by the defendant.

835 (3) ~~[Subject to Subsection (5), the office shall disburse]~~ When the office collects
836 money ~~collected~~ from a defendant for a criminal accounts receivable, a civil accounts
837 receivable ~~and~~, or a civil judgment of restitution, the office shall disburse the money in the
838 following order of priority:

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

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

843 (c) third, to the cost of obtaining a DNA specimen from the defendant in accordance
844 with Subsection (4)(b);

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

846 (e) fifth, to the cost owed by the defendant for a reward described in Section
847 77-32b-104;

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

850 (g) seventh, to any other ~~[cost]~~ amount owed by the defendant.

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

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

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

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

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

860 (b) ~~[Subject to Subsection (5), if]~~ If a defendant is required under Section 53-10-404 to
861 reimburse the department for the cost of obtaining the defendant's DNA specimen, the
862 reimbursement for the cost of obtaining the defendant's DNA specimen is the next priority after
863 restitution to the victim of the offense under Subsection (4)(a)(i).

864 (c) If a defendant is required to pay restitution to more than one victim, the court or the
865 office shall disburse a payment for restitution proportionally to each victim.

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

869 (5) ~~[The]~~ Notwithstanding the requirements for the disbursement of a payment under
870 Subsection (3) or (4), the office shall disburse money collected from a defendant to a debt that
871 is a part of a civil accounts receivable or civil judgment of restitution if:

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

874 (b) (i) the payment will eliminate the entire balance of the debt, including any interest;
875 or

876 (ii) after reaching a settlement, the payment amount will eliminate the entire agreed
877 upon balance of the debt, including any interest.

878 (6) For a criminal accounts receivable, the department shall collect the current and past
879 due amount owed by a defendant for the monthly supervision fee under Subsection
880 [64-13-21\(6\)\(a\)](#) until the court enters a civil accounts receivable on the civil judgment docket
881 under Section [77-18-114](#).

882 (7) Notwithstanding any other provision of this section:

883 (a) the office may collect a fee, as described in Subsection [63A-3-502\(4\)](#), from each
884 payment for a criminal accounts receivable, a civil accounts receivable, or a civil judgment of
885 restitution before disbursing the payment as described in this section; and

886 (b) the office shall apply any payment collected through garnishment to the case for
887 which the garnishment was issued.

888 Section 14. Section **78A-7-118** is amended to read:

889 **78A-7-118. Appeals from justice court -- Trial or hearing de novo in district**
890 **court.**

891 (1) As used in this section:

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

893 (b) "Victim" means the same as that term is defined in Section [77-38b-102](#).
894 ~~[(+)]~~ (2) In a criminal case, a defendant is entitled to a trial de novo in the district court
895 only if the defendant files a notice of appeal within 28 days ~~[of]~~ after the day on which:
896 ~~[(a) sentencing, except as provided in Subsection (4)(b); or]~~
897 ~~[(b)]~~ (a) except as provided in Subsection (5)(a)(ii), the justice court sentences the
898 defendant; or
899 (b) the defendant enters a plea of guilty or no contest in the justice court that is held in
900 abeyance.
901 ~~[(2)]~~ (3) Upon filing a proper notice of appeal, any term of a sentence imposed by the
902 justice court ~~[shall be]~~ is stayed as provided for in Section [77-20-302](#) and the Utah Rules of
903 Criminal Procedure.
904 ~~[(3)]~~ (4) If an appeal under Subsection ~~[(+)]~~ (2) is of a plea entered pursuant to
905 negotiation with the prosecutor, and the defendant did not reserve the right to appeal as part of
906 the plea negotiation, the negotiation is voided by the appeal.
907 ~~[(4)]~~ (5) (a) A defendant convicted and sentenced in the justice court is entitled to a
908 hearing de novo in the district court ~~[on the following matters, if the defendant files a notice of~~
909 ~~appeal within 28 days of]~~ regarding:
910 ~~[(a)]~~ (i) an order revoking probation;
911 ~~[(b)]~~ (ii) ~~[imposition of a sentence, following]~~ a sentence after a determination that a
912 defendant failed to fulfill the terms of a plea in abeyance agreement;
913 ~~[(c)]~~ (iii) an order denying a motion to withdraw a plea~~;~~ if the plea is being held in
914 abeyance and the motion to withdraw the plea is filed within 28 days ~~[of the entry of the plea]~~
915 after the day on which the plea is entered;
916 ~~[(d)]~~ (iv) ~~[a postsentence order fixing total or court ordered]~~ an order for restitution; or
917 ~~[(e)]~~ (v) an order denying expungement.
918 (b) A defendant seeking an appeal under Subsection (5)(a) shall file a notice of appeal
919 within 28 days after the day on which the justice court enters the order or sentence.

920 (6) (a) A defendant who has entered into a plea in abeyance in the justice court is
921 entitled to a hearing de novo in the district court on the determination by the justice court as to
922 the amount of restitution owed by the defendant as a part of the plea in abeyance agreement.

923 (b) A defendant seeking an appeal under Subsection (6)(a) shall file a notice of appeal
924 within 28 days after the day on which the justice court enters the order for restitution.

925 [~~(5) The~~]

926 (7) (a) A prosecutor is entitled to a hearing de novo in the district court [if an appeal is
927 filed within 28 days of the court entering] regarding:

928 [~~(a)~~] (i) a final judgment of dismissal;

929 [~~(b)~~] (ii) an order arresting judgment;

930 [~~(c)~~] (iii) an order terminating the prosecution because of a finding of double jeopardy
931 or denial of a speedy trial;

932 [~~(d)~~] (iv) a judgment holding invalid any part of a statute or ordinance;

933 [~~(e)~~] (v) a pretrial order excluding evidence[;] when the prosecutor certifies that
934 exclusion of that evidence prevents continued prosecution of an infraction or class C
935 misdemeanor;

936 [~~(f)~~] (vi) a pretrial order excluding evidence[;] when the prosecutor certifies that
937 exclusion of that evidence impairs continued prosecution of a class B misdemeanor;

938 [~~(g)~~] (vii) an order granting a motion to withdraw a plea of guilty or no contest; or

939 [~~(h) an order fixing total restitution at an amount less than requested by a crime victim;~~
940 or]

941 [~~(i)~~] (viii) an order granting an expungement[;] if the expungement was opposed by the
942 prosecution or a victim before the order was entered.

943 (b) A prosecutor seeking an appeal under Subsection (7)(a) shall file a notice of appeal
944 within 28 days after the day on which the justice court enters the order or judgment.

945 (8) (a) A prosecutor or a victim is entitled to a restitution hearing de novo in the district
946 court regarding restitution if:

947 (i) a request for restitution was made in the justice court; and
948 (ii) the justice court:
949 (A) failed to order the defendant to pay restitution to the victim; or
950 (B) ordered the defendant to pay restitution in an amount less than requested.
951 (b) A prosecutor or victim seeking an appeal under Subsection (8)(a) shall file a notice
952 of appeal within 28 days after the day on which the justice court:
953 (i) failed to order the defendant to pay restitution; or
954 (ii) ordered the defendant to pay restitution in an amount less than requested.
955 ~~[(6)]~~ (9) Upon entering a decision in a hearing de novo, the district court shall remand
956 the case to the justice court unless:
957 (a) the decision results in immediate dismissal of the case; or
958 (b) the hearing de novo was on a pretrial order and the parties and the district court
959 agree to have the district court retain jurisdiction.
960 ~~[(7)]~~ (10) The district court shall retain jurisdiction over the case on trial de novo.
961 ~~[(8)]~~ (11) The decision of the district court is final and may not be appealed unless the
962 district court rules on the constitutionality of a statute or ordinance.