

# HB0050S01 compared with HB0050

~~{deleted text}~~ shows text that was in HB0050 but was deleted in HB0050S01.

inserted text shows text that was not in HB0050 but was inserted into HB0050S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Karianne Lisonbee proposes the following substitute bill:

## CRIMINAL FINANCIAL OBLIGATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: Todd D. Weiler

---

### LONG TITLE

#### ~~{Committee Note:~~

~~———— The Judiciary Interim Committee recommended this bill.~~

~~———— Legislative Vote: 15 voting for 0 voting against 2 absent~~

#### ~~{General Description:~~

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

#### **Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ clarifies the duties of the Office of State Debt Collection in regards to the settlement of an accounts receivable with a restitution amount;
- ▶ addresses fees and interest for an infraction;

## **HB0050S01 compared with HB0050**

- ▶ addresses restitution for a plea in abeyance;
- ▶ addresses a criminal accounts receivable in regards to probation;
- ▶ addresses a payment towards a civil judgment of restitution;
- ▶ amends provisions regarding the collection of information for restitution;
- ▶ amends provisions regarding an order for restitution;
- ▶ clarifies the effect and nature of a civil judgment of restitution and a civil accounts receivable;
- ▶ addresses a civil action or settlement for a defendant's criminal conduct;
- ▶ amends provisions regarding the disbursement of payments towards a criminal accounts receivable, a civil accounts receivable, and a civil judgment of restitution;
- ▶ amends provisions regarding an appeal from a justice court to a district court; and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

None

### **Utah Code Sections Affected:**

AMENDS:

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

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

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

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

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

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

**77-20-302**, as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4

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

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

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

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

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

## HB0050S01 compared with HB0050

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

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

---

---

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

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

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

- (1) The state and each state agency shall comply with:
  - (a) the requirements of this chapter; and
  - (b) any rules established by the Office of State Debt Collection.
- (2) There is created the Office of State Debt Collection in the Division of Finance.
- (3) The office shall:
  - (a) have overall responsibility for collecting and managing state receivables;
  - (b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;
  - (c) oversee and monitor state receivables to ensure that state agencies are:
    - (i) implementing all appropriate collection methods;
    - (ii) following established receivables guidelines; and
    - (iii) accounting for and reporting receivables in the appropriate manner;
  - (d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;
  - (e) provide information, training, and technical assistance to each state agency on various collection-related topics;
  - (f) write an inclusive receivables management and collection manual for use by each state agency;
  - (g) prepare quarterly and annual reports of the state's receivables;
  - (h) create or coordinate a state accounts receivable database;
  - (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;
  - (j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;
  - (k) coordinate information, systems, and procedures between each state agency to

## HB0050S01 compared with HB0050

maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

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

(o) be a real party in interest for:

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

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

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

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

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

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

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

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

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

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

(t) consult with a state agency on whether:

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

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

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

## HB0050S01 compared with HB0050

made with a state agency or the office when:

- (i) the payment arrangement is created; or
  - (ii) the debtor requests a copy of the terms and conditions.
- (4) The office may:
- (a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;
  - (b) collect accounts receivables for higher education entities, if the higher education entity agrees;
  - (c) prepare a request for proposal for consulting services to:
    - (i) analyze the state's receivable management and collection efforts; and
    - (ii) identify improvements needed to further enhance the state's effectiveness in collecting the state's receivables;
  - (d) contract with private or state agencies to collect past-due accounts;
  - (e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;
  - (f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial declaration form described in Section 77-38b-204;
  - (g) collect interest and fees related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-504:
    - (i) a fee to cover the administrative costs of collection on accounts administered by the office;
    - (ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;
    - (iii) an interest charge that is:
      - (A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or
      - (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and
    - (iv) fees to collect accounts receivable for higher education;
  - (h) collect reasonable attorney fees and reasonable costs of collection that are related to

## HB0050S01 compared with HB0050

the collection of receivables under this chapter;

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

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

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

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

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

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

(5) The office shall ensure that:

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

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

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

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

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

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

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

## HB0050S01 compared with HB0050

(b) The office may not assess:

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) are not compensation for actual pecuniary loss;

(d) for a civil accounts receivable:

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

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

(e) for a civil judgment of restitution:

(i) begin to accrue on the day on which the civil judgment of restitution is entered on

## HB0050S01 compared with HB0050

the civil judgment docket under Subsection 77-18-114(1); and

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

(f) for all other accounts receivable:

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

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

(g) may be waived by:

(i) the office; or

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

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

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

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

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

(b) \$5,000 for a felony conviction of the third degree;

(c) \$2,500 for a class A misdemeanor conviction;

(d) \$1,000 for a class B misdemeanor conviction;

(e) \$750 for a class C misdemeanor conviction or infraction conviction; and

(f) any greater amounts specifically authorized by statute.

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

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

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

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

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

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



## HB0050S01 compared with HB0050

fees.

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

(a) victim restitution; or

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

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

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

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

As used in this chapter:

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

~~[(1)]~~ (2) "Pecuniary damages" means the same as that term is defined in Section 77-38b-102.

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

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

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

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

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

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

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

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

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

(a) reduce the degree of the offense and enter judgment of conviction and impose

## HB0050S01 compared with HB0050

sentence for a lower degree of offense; or

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

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

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

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

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

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

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

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

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

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

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

(6) ~~(b)~~ (a) The terms of a plea in abeyance shall include:

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

## HB0050S01 compared with HB0050

(ii) a certification from the prosecuting attorney that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## HB0050S01 compared with HB0050

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

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

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

(ii) if the department is responsible for the collection of the defendant's criminal accounts receivable, a summary of the criminal accounts receivable, including the amount of restitution ordered and the amount of restitution that has been paid.

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

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

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

(ii) A party shall have a reasonable opportunity to respond to the written notice under Subsection (1)(a).

~~[(c)]~~ (d) If a defendant's probation is being terminated, and the defendant's criminal accounts receivable has an unpaid balance or there is any outstanding debt with the department, the department shall ~~[notify]~~ send a written notice to the Office of State Debt Collection [that the defendant's criminal accounts receivable has an unpaid balance or there is an outstanding debt with the department.] with a summary of the defendant's criminal accounts receivable, including the amount of restitution ordered and the amount of restitution that has been paid.

(2) (a) The court may modify the defendant's probation in accordance with the supervision length guidelines and the graduated and evidence-based responses and graduated incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(b) The court may not:

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

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

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

(ii) revoke a defendant's probation, except upon a hearing and a finding by the court that the terms of probation have been violated; or

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

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

## HB0050S01 compared with HB0050

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

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

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

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

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

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

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

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

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

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

(iii) The defendant shall show good cause for a continuance of the hearing.

(c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(d) (i) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(ii) If the affidavit, or unsworn written declaration, alleges that a defendant is delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall present evidence to establish, by a preponderance of the evidence, that the defendant:

## HB0050S01 compared with HB0050

(A) was aware of the defendant's obligation to pay the balance of the criminal accounts receivable;

(B) failed to pay on the balance of the criminal accounts receivable as ordered by the court; and

(C) had the ability to make a payment on the balance of the criminal accounts receivable if the defendant opposes an order to show cause, in writing, and presents evidence that the defendant was unable to make a payment on the balance of the criminal accounts receivable.

(e) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant, unless the court for good cause otherwise orders.

(f) At the hearing, the defendant may:

(i) call witnesses;

(ii) appear and speak in the defendant's own behalf; and

(iii) present evidence.

(g) (i) After the hearing, the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the terms of the defendant's probation, the court may order the defendant's probation terminated, revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

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

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

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

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

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

## HB0050S01 compared with HB0050

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

(iv) execute the sentence previously imposed; or

(v) order any other appropriate sanction.

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

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

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

(ii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation does not constitute service of time toward the total probation term, unless the defendant is exonerated at the hearing to revoke probation; or

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

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

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

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

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

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

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

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

## HB0050S01 compared with HB0050

the board:

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The Office of State Debt Collection shall notify the court when a civil judgment of



## HB0050S01 compared with HB0050

restitution or a civil accounts receivable is satisfied.

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

- (a) constitutes a lien on the defendant's real property until the judgment is satisfied; and
- (b) may be collected by any means authorized by law for the collection of a civil judgment.

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

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

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

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

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

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

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

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

- (a) the appeal raises a substantial question of law or fact likely to result in:
  - (i) reversal;

## HB0050S01 compared with HB0050

- (ii) an order for a new trial; or
- (iii) a sentence that does not include a term of imprisonment in jail or prison;
- (b) the appeal is not for the purpose of delay; and
- (c) by clear and convincing evidence presented by the defendant, that the defendant:
  - (i) is not likely to flee the jurisdiction of the court if released; and
  - (ii) will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

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

(b) The conditions under Subsection (2)(a) may include conditions described in Subsection 77-20-205(4).

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

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

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

- (a) continuation of any pretrial restrictions or orders;
- (b) sentencing protective orders under Section 78B-7-804;
- (c) drug and alcohol use;
- (d) use of an ignition interlock; and
- (e) posting appropriate monetary bail.

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

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

## HB0050S01 compared with HB0050

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

### 77-38b-102. Definitions.

As used in this chapter:

- (1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.
- (2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
- (3) (a) "Conviction" means:
  - (i) a plea of:
    - (A) guilty;
    - (B) guilty with a mental illness; or
    - (C) no contest; or
  - (ii) a judgment of:
    - (A) guilty; or
    - (B) guilty with a mental illness.
- (b) "Conviction" does not include:
  - (i) a plea in abeyance until a conviction is entered for the plea in abeyance;
  - (ii) a diversion agreement; or
  - (iii) an adjudication of a minor for an offense under Section 80-6-701.
- (4) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.
- (5) "Criminal conduct" means:
  - (a) any misdemeanor or felony offense of which the defendant is convicted; or
  - (b) any other criminal behavior for which the defendant admits responsibility to the [sentencing] court with or without an admission of committing the criminal behavior.
- (6) (a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, criminal conduct.
  - (b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80, Chapter 6, Juvenile Justice.
- (7) "Department" means the Department of Corrections.

## HB0050S01 compared with HB0050

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

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

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

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

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

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

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

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

~~[(15)]~~ (14) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.

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

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

~~[(18)]~~ (17) (a) "Victim" means any person who has suffered pecuniary damages that are

## HB0050S01 compared with HB0050

proximately caused by the criminal conduct of the defendant.

(b) "Victim" includes:

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

(ii) the estate of a deceased victim; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(iii) The court shall enter the determination of the amount of restitution under~~

## HB0050S01 compared with HB0050

~~Subsection (1)(a)(ii) as a finding on the record.]~~

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

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

or

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

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

(d) The court shall enter the determination of the amount of restitution under Subsection (1)(a)(ii) or (b)(ii) as a finding on the record.

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

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

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

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

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

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

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

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

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

## HB0050S01 compared with HB0050

### restitution.

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

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

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

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

~~[(c) The court may not enter an order for restitution without a statement from the prosecuting attorney that the prosecuting attorney has consulted with the victim, including the Utah Office for Victims of Crime.].]~~

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

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

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

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

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

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

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

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

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

## HB0050S01 compared with HB0050

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

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

(c) If the defendant receives notice and objects to a motion for restitution, the court may schedule a hearing to determine whether restitution should be ordered if the prosecuting attorney or victim shows good cause.

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

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

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

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

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

- (a) a civil judgment of restitution; or
- (b) a civil accounts receivable.

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

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

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

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

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

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

(3) (a) Notwithstanding Sections 77-18-114, 78B-2-311, and 78B-5-202, a civil ~~judgment~~ shall expire only upon payment in full, including any applicable interest, collection



## HB0050S01 compared with HB0050

fees, attorney fees, and liens that directly result from the civil judgment.

(b) Interest on a civil judgment may only accrue from the day on which the civil judgment is entered on the civil judgment docket by the court.

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

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

- (a) an amount owed by the defendant;
- (b) the name of the defendant as the judgment debtor; and
- (c) the name of the judgment creditors described in Subsections 77-18-114(1)(b)(iii) and (2)(b).

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

(6) Notwithstanding any other provision of law:

- (a) a civil judgment is an obligation that arises out of a defendant's criminal case;
- (b) a civil judgment is criminal in nature;
- (c) the civil enforcement of a civil judgment shall be construed as a continuation of the criminal action for which the civil judgment arises; and
- (d) the civil enforcement of a civil judgment does not divest a defendant of an obligation imposed as part of the defendant's punishment in a criminal action.

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

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

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

(1) As used in this section:

(a) "Civil settlement" or "settlement" means an agreement entered into between a victim and a defendant that settles all the claims that a victim may bring in a civil action against the defendant for the defendant's criminal conduct.

(b) "Civil settlement" or "settlement" does not include an agreement that settles a civil

## HB0050S01 compared with HB0050

judgment of restitution or a civil accounts receivable for a defendant.

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

~~[(2)]~~ (3) (a) A court's finding on the amount of restitution owed by a defendant under Subsection ~~[77-38b-205(1)(a)(iii)]~~ 77-38b-205(1)(d) may be used in a civil action 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.

(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) (i) Except as provided in Subsection ~~[(2)(c)(ii)]~~ (3)(c)(ii), if a defendant is convicted of a misdemeanor or felony offense, 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.

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

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

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

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

~~[(3)]~~ (5) (a) The sentencing court shall credit any payment ~~[in favor of the]~~ made to a 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

## HB0050S01 compared with HB0050

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 to the court or the office.]~~

~~(4)~~1(6) (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. ~~{}~~

~~(6)~~7 (a) The sentencing court shall credit any payment made to a victim as part of a civil settlement toward the amount of restitution owed by the defendant to the victim if the sentencing court determines that the payment compensates the victim for pecuniary damages proximately caused by the defendant's criminal conduct.

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

~~(7)~~8 Nothing in this section shall prevent a defendant from providing proof of payment to the court or the office.

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

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

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

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

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

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

(d) there is no pending legal issue that would affect an order for restitution or the

## HB0050S01 compared with HB0050

### distribution of restitution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) (a) ~~[Subject to Subsection (5), if]~~ If a defendant owes restitution to more than one person or government agency at the same time, the court, or the office, shall disburse a

## HB0050S01 compared with HB0050

payment for restitution in the following order of priority:

- (i) first, to the victim of the offense;
- (ii) second, to the Utah Office for Victims of Crime;
- (iii) third, any other government agency that has provided reimbursement to the victim

as a result of the defendant's criminal conduct; and

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

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

(c) If a defendant is required to pay restitution to more than one victim, the court or the office shall disburse a payment for restitution in proportion to the principal amount owed to each victim, applying the payment to interest first, unless otherwise provided by statute.

~~[(c) Subject to Subsection (5), if the defendant is required to pay restitution to more than one victim, {} restitution shall be disbursed to each victim according to the percentage of each victim's share of the total order for restitution.] { the court, or the office, shall disburse a payment for restitution in proportion to the principal amount owed to each victim before applying the payment to the interest that has accrued on the principal amount owed to each victim.~~

~~(5) The}~~

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

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

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

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

(6) For a criminal accounts receivable, the department shall collect the current and past

## HB0050S01 compared with HB0050

due amount owed by a defendant for the monthly supervision fee under Subsection 64-13-21(6)(a) until the court enters a civil accounts receivable on the civil judgment docket under Section 77-18-114.

(7) Notwithstanding any other provision of this section:

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

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

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

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

(1) As used this in this section:

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

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

~~(1)~~ (2) In a criminal case, a defendant is entitled to a trial de novo in the district court only if the defendant files a notice of appeal within 28 days ~~of~~ after the day on which:

~~{(a) [sentencing,]} { (a) sentencing, except as provided in Subsection (4)(b); or }~~

~~{(b) (a) except as provided in Subsection ~~{(4)(b)}~~ (5) ~~{(b)}(a)(ii)~~, the justice court sentences the defendant; or~~

(b) the defendant enters a plea of guilty or no contest in the justice court that is held in abeyance.

~~(2)~~ (3) Upon filing a proper notice of appeal, any term of a sentence imposed by the justice court ~~shall be~~ is stayed as provided for in Section 77-20-302 and the Utah Rules of Criminal Procedure.

~~(3)~~ (4) If an appeal under Subsection ~~{(1)}~~ (2) is of a plea entered pursuant to negotiation with the prosecutor, and the defendant did not reserve the right to appeal as part of the plea negotiation, the negotiation is voided by the appeal.

~~(4)~~ (5) (a) A defendant convicted and sentenced in the justice court is entitled to a hearing de novo in the district court ~~[on the following matters { }, { }]~~ if the defendant files a notice of appeal within 28 days ~~{ } of~~ after the day on which the justice court

## HB0050S01 compared with HB0050

~~enters}~~ regarding:

~~[(a)]~~ (i) an order revoking probation;

~~[(b)]~~ (ii) ~~[imposition of a sentence, following {}]~~ an imposition of a sentence after a determination that a defendant failed to fulfill the terms of a plea in abeyance agreement;

~~[(c)]~~ (iii) an order denying a motion to withdraw a plea~~;~~ if the plea is being held in abeyance and the motion to withdraw the plea is filed within 28 days ~~[of the entry of the plea]~~ after the day on which the plea is entered;

~~[(d)]~~ (iv) ~~[a postsentence order {} fixing total or court ordered]~~ an order for restitution; or

~~[(e)]~~ (v) an order denying expungement.

~~{{(5)} (6) [The]}~~ (b) A defendant seeking an appeal under Subsection (5)(a) shall file a notice of appeal within 28 days after the day on which the justice court enters the order or sentence.

(6) (a) A defendant who has entered into a plea in abeyance in the justice court is entitled to a hearing de novo in the district court on the determination by the justice court as to the amount of restitution owed by the defendant under Subsection 77-2a-3(6)(b) as a part of the plea in abeyance agreement.

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

~~[(5) The]~~

(7) (a) A prosecutor is entitled to a hearing de novo in the district court [if {}] an appeal is filed {} the prosecutor files a notice of appeal} within 28 days {} of the court entering] ~~{after the day on which the justice court enters}~~ regarding:

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

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

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

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

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

## HB0050S01 compared with HB0050

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

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

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

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

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

~~(~~f7~~)~~ (8) (a) A prosecutor or a victim is entitled to a restitution hearing de novo in the district court regarding restitution if:

~~(~~fa~~)~~ ~~i~~ ~~{ the prosecutor or victim made }~~ a request for restitution was made in the justice court; and

(ii) the justice court:

~~(~~fi~~)~~ A ~~{ fails }~~ failed to order the defendant to pay restitution to the victim; or

~~(~~fi~~)~~ B ~~{ orders }~~ ordered the defendant to pay restitution in an amount less than requested~~{ by the }~~.

(b) A prosecutor or victim~~{ and~~

~~\_\_\_\_\_~~ ~~(b) the prosecutor or the victim files~~ seeking an appeal under Subsection (8)(a) shall file a notice of appeal within 28 days after the day on which~~{~~:

~~\_\_\_\_\_~~ ~~(i) { the justice court { sentences the defendant and fails }:~~

(i) failed to order the defendant to pay restitution;~~{~~

~~\_\_\_\_\_~~ ~~(ii) the justice court holds a restitution hearing and fails to order the defendant to pay restitution;~~

~~\_\_\_\_\_~~ ~~(iii) the defendant enters a plea of guilty or no contest in the justice court that is held in abeyance and the justice court fails to order the defendant to pay restitution as a condition of the plea in abeyance; or~~

~~\_\_\_\_\_~~ ~~(iv) the justice court orders~~ or

(ii) ordered the defendant to pay restitution in an amount less than requested~~{ by the prosecutor or victim }~~.

~~[(6)]~~ ~~(~~f8~~)~~ (9) Upon entering a decision in a hearing de novo, the district court shall



## HB0050S01 compared with HB0050

remand the case to the justice court unless:

- (a) the decision results in immediate dismissal of the case; or
- (b) the hearing de novo was on a pretrial order and the parties and the district court

agree to have the district court retain jurisdiction.

~~(7)~~ ~~(9)~~ (10) The district court shall retain jurisdiction over the case on trial de novo.

~~(8)~~ ~~(10)~~ (11) The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.