

Representative Nelson T. Abbott proposes the following substitute bill:

RESTITUTION REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to restitution.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses restitution owed by a defendant to an individual for financial support that a deceased victim, or a permanently impaired victim, had a legal obligation to provide to the individual at the time of the defendant's criminal conduct;
- ▶ addresses restitution payments with regard to a civil action for the defendant's criminal conduct; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-503, as last amended by Laws of Utah 2021, Chapter 260



- 26 77-18-114, as last amended by Laws of Utah 2023, Chapter 113
- 27 77-18-118, as last amended by Laws of Utah 2022, Chapter 359
- 28 77-27-6.1, as enacted by Laws of Utah 2021, Chapter 260
- 29 77-32b-103, as last amended by Laws of Utah 2023, Chapter 330
- 30 77-38b-102, as last amended by Laws of Utah 2023, Chapters 113, 184
- 31 77-38b-202, as enacted by Laws of Utah 2021, Chapter 260
- 32 77-38b-205, as last amended by Laws of Utah 2023, Chapter 113
- 33 77-38b-303, as last amended by Laws of Utah 2023, Chapter 113

34 ENACTS:

- 35 77-38b-206, Utah Code Annotated 1953



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

38 Section 1. Section 63M-7-503 is amended to read:

39 **63M-7-503. Restitution -- Reparations not to supplant restitution -- Assignment**
40 **of claim for restitution judgment to Reparations Office.**

41 (1) A reparations award may not supplant an order for restitution under Title 77,
42 Chapter 38b, Crime Victims Restitution Act, or under any other provision of law.

43 (2) The court may not reduce an order for restitution based on a reparations award.

44 (3) (a) (i) If a victim receives a reparations award and the office is assigned the victim's
45 claim for restitution, or a portion of the victim's claim for restitution, under Section
46 63M-7-519, the office may file with the sentencing court a notice of restitution listing the
47 amounts or estimated future amounts of payments made or anticipated to be made to or on
48 behalf of the victim.

49 (ii) The office may provide a notice of restitution to the victim or victim's
50 representative before or at sentencing.

51 (iii) The office's failure to provide notice under Subsection (3)(a)(i) or (ii) does not
52 invalidate the imposition of the judgment or an order for restitution if the defendant is given the
53 opportunity to object and be heard as provided in this part.

54 (b) (i) Any objection by the defendant to the imposition or amount of restitution under
55 Subsection (3)(a)(i) shall be:

- 56 (A) made at the time of sentencing; or

57 (B) made in writing within 20 days after the day on which the defendant receives the
58 notice described in Subsection (3)(a) and filed with the court and a copy mailed to the office.

59 (ii) Upon an objection, the court shall allow the defendant a hearing on the issue.

60 (iii) After a hearing under Subsection (3)(b)(ii), the court shall:

61 (A) enter an order for restitution in accordance with Section [77-38b-205](#); and

62 (B) identify the office as an assignee for the order for restitution.

63 (iv) Subject to the right of the defendant to object, the amount of restitution sought by
64 the office may be updated and the office identified as an assignee of an order for restitution in
65 accordance with the time periods established under [~~Subsection [77-38b-205](#)(5)~~] Section
66 [77-38b-205](#).

67 (4) If no objection is made or filed by the defendant under Subsection (3), the court
68 shall upon conviction and sentencing:

69 (a) enter an order for restitution in accordance with Section [77-38b-205](#); and

70 (b) identify the office as an assignee for the order for restitution.

71 (5) (a) If the notice of restitution is filed after sentencing but during the term of
72 probation or parole, the court shall:

73 (i) modify any order for restitution to include expenses paid by the office on behalf of
74 the victim in accordance with [~~Subsection [77-38b-205](#)(5)~~] Section [77-38b-205](#); and

75 (ii) identify the office as an assignee of the order for restitution.

76 (b) If an order for restitution has not been entered, the court shall:

77 (i) enter an order for restitution in accordance with Section [77-38b-205](#); and

78 (ii) identify the office as an assignee of the order for restitution.

79 Section 2. Section **77-18-114** is amended to read:

80 **77-18-114. Unpaid balance at termination of sentence -- Past due account --**

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

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

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

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

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

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

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

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

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

98 (2) If a criminal accounts receivable for the defendant is more than 90 days past due
99 and the court has ordered that a defendant does not owe restitution to any victim, or the time
100 period [~~in Subsection 77-38b-205(5) has passed~~] for entering an order for restitution has
101 expired under Section 77-38b-205 and the court has not ordered restitution, the court may:

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

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

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

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

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

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

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

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

120 (b) may be collected by any means authorized by law for the collection of a civil

121 judgment.

122 (7) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of

123 restitution are not subject to the civil statutes of limitation and expire only upon payment in

124 full.

125 (8) (a) If a defendant asserts that a payment was made to a victim or third party for a

126 civil judgment of restitution, or enters into any other transaction that does not involve the

127 Office of State Debt Collection, and the defendant asserts that the payment results in a credit

128 towards the civil judgment of restitution for the defendant:

129 (i) the defendant shall provide notice to the Office of State Debt Collection and the

130 prosecuting attorney within 30 days after the day on which the payment or other transaction is

131 made; and

132 (ii) the payment may only be credited towards the civil judgment of restitution and

133 does not affect any other amount owed to the Office of State Debt Collection under Section

134 [63A-3-502](#).

135 (b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party

136 from providing notice of a payment towards a civil judgment of restitution to the Office of

137 State Debt Collection.

138 Section 3. Section **77-18-118** is amended to read:

139 **77-18-118. Continuing jurisdiction of a sentencing court.**

140 (1) A sentencing court shall retain jurisdiction over a defendant's criminal case:

141 (a) if the defendant is on probation as described in Subsection [77-18-105\(3\)\(c\)](#);

142 (b) if the defendant is on probation and the probation period has terminated under

143 Subsection [77-18-105\(7\)](#), to require the defendant to continue to make payments towards a

144 criminal accounts receivable until the defendant's sentence expires;

145 (c) within the time periods described in [~~Subsection [77-38b-205\(5\)](#)~~] Section

146 [77-38b-205](#), to enter or modify an order for a criminal accounts receivable in accordance with

147 Section [77-32b-103](#);

148 (d) within the time periods described in [~~Subsection [77-38b-205\(5\)](#)~~] Section

149 [77-38b-205](#), to enter or modify an order for restitution in accordance with Section [77-38b-205](#);

150 (e) until a defendant's sentence is terminated, to correct an error for a criminal accounts
151 receivable in accordance with Subsection 77-32b-105(1)(a);

152 (f) until a defendant's sentence is terminated, to modify a payment schedule for a
153 criminal accounts receivable in accordance with Subsection 77-32b-105(1)(b);

154 (g) if a defendant files a petition for remittance under Subsection 77-32b-106(1) within
155 90 days from the day on which the defendant's sentence is terminated, to determine whether to
156 remit, in whole or in part, the defendant's criminal accounts receivable; and

157 (h) to enter an order for a civil accounts receivable and a civil judgment of restitution
158 in accordance with Section 77-18-114.

159 (2) This section does not prevent a court from exercising jurisdiction over:

160 (a) a contempt proceeding for a defendant under Title 78B, Chapter 6, Part 3,
161 Contempt; or

162 (b) enforcement of a civil accounts receivable or a civil judgment of restitution.
163 Section 4. Section 77-27-6.1 is amended to read:

164 **77-27-6.1. Payment of a criminal accounts receivable -- Failure to enter an order**
165 **for restitution or create a criminal accounts receivable -- Modification of a criminal**
166 **accounts receivable -- Order for recovery of costs or pecuniary damages.**

167 (1) When an offender is committed to prison, the board may require the offender to pay
168 the offender's criminal accounts receivable ordered by the court during the period of
169 incarceration or parole supervision.

170 (2) If the board orders the release of an offender on parole and there is an unpaid
171 balance on the offender's criminal accounts receivable, the board may modify the payment
172 schedule entered by the court for the offender's criminal accounts receivable in accordance with
173 Section 77-32b-105.

174 (3) (a) If the sentencing court has not entered an order of restitution for an offender
175 who is under the jurisdiction of the board, the board shall refer the offender's case to the
176 sentencing court, within the time periods described in [~~Subsection 77-38b-205(5),~~] Section
177 77-38b-205, to enter an order for restitution for the offender in accordance with Section
178 77-38b-205.

179 (b) If the sentencing court has not entered an order to establish a criminal accounts
180 receivable for an offender who is under the jurisdiction of the board, the board shall refer the

181 offender's case to the sentencing court, within the time periods described in [~~Subsection~~
 182 ~~77-38b-205(5);~~] Section 77-38b-205, to enter an order to establish a criminal accounts
 183 receivable for the offender in accordance with Section 77-32b-103.

184 (4) (a) If there is a challenge to an offender's criminal accounts receivable, the board
 185 shall refer the offender's case to the sentencing court, within the time periods described in
 186 [~~Subsection 77-38b-205(5);~~] Section 77-38b-205, to resolve the challenge to the criminal
 187 accounts receivable.

188 (b) If a sentencing court modifies a criminal accounts receivable after the offender is
 189 committed to prison, the sentencing court shall provide notice to the board of the modification.

190 (5) The board may enter an order to recover any cost incurred by the department, or the
 191 state or any other agency, arising out of the offender's needs or conduct.

192 Section 5. Section **77-32b-103** is amended to read:

193 **77-32b-103. Establishment of a criminal accounts receivable -- Responsibility --**
 194 **Payment schedule -- Delinquency or default.**

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

198 (b) The court is not required to create a criminal accounts receivable for the defendant
 199 under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there
 200 are no other fines or fees to be assessed against the defendant.

201 (c) [~~Subject to Subsection 77-38b-205(5), if~~] If the court does not create a criminal
 202 accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to
 203 establish a criminal accounts receivable for the defendant at the time the court enters an order
 204 for restitution under Section 77-38b-205.

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

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

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

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

211 (b) for all other cases:

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

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

216 (c) For a criminal accounts receivable that a court retains responsibility for receiving,
217 processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may
218 establish rules to require a defendant to pay the cost, or a portion of the cost, for an electronic
219 payment fee that is charged by a financial institution for the use of a credit or debit card to
220 make payments towards the criminal accounts receivable.

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

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

225 (i) the needs of the victim if the criminal accounts receivable includes an order for
226 restitution under Section 77-38b-205;

227 (ii) the financial resources of the defendant, as disclosed in the financial declaration
228 under Section 77-38b-204 or in evidence obtained by subpoena under Subsection
229 77-38b-402(1)(b);

230 (iii) the burden that the payment schedule will impose on the defendant regarding the
231 other reasonable obligations of the defendant;

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

234 (v) the rehabilitative effect on the defendant of the payment of restitution and method
235 of payment; and

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

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

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

243 (6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as
244 defined in Section 64-13-1, or the defendant is involuntarily committed under Section
245 26B-5-332:

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

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

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

254 Section 6. Section 77-38b-102 is amended to read:

255 **77-38b-102. Definitions.**

256 As used in this chapter:

257 (1) "Civil accounts receivable" means the same as that term is defined in Section
258 77-32b-102.

259 (2) "Civil judgment of restitution" means the same as that term is defined in Section
260 77-32b-102.

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

262 (i) a plea of:

263 (A) guilty;

264 (B) guilty with a mental condition; or

265 (C) no contest; or

266 (ii) a judgment of:

267 (A) guilty; or

268 (B) guilty with a mental condition.

269 (b) "Conviction" does not include:

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

271 (ii) a diversion agreement; or

272 (iii) an adjudication of a minor for an offense under Section 80-6-701.

273 (4) "Criminal accounts receivable" means the same as that term is defined in Section

274 77-32b-102.

275 (5) "Criminal conduct" means:

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

277 (b) any other criminal behavior for which the defendant admits responsibility to the

278 court with or without an admission of committing the criminal behavior.

279 (6) "Deceased victim" means an individual whose death is proximately caused by the
 280 criminal conduct of the defendant.

281 [~~(6)~~] (7) (a) "Defendant" means an individual who has been convicted of, or entered
 282 into a plea disposition for, criminal conduct.

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

286 [~~(7)~~] (8) "Department" means the Department of Corrections.

287 (9) (a) "Dependent" means an individual for whom a deceased victim, or a permanently
 288 impaired victim, had a legal obligation to provide dependent support at the time of the criminal
 289 conduct by the defendant.

290 (b) "Dependent" includes:

291 (i) a child:

292 (A) who is younger than 18 years old; and

293 (B) for whom a deceased victim, or a permanently impaired victim, is the adoptive or
 294 biological parent or legal guardian;

295 (ii) an unborn child who has a parent-child relationship with a deceased victim, or a
 296 permanently impaired victim, in accordance with Title 78B, Chapter 15, Utah Uniform
 297 Parentage Act; or

298 (iii) an incapacitated individual for whom a deceased victim, or a permanently
 299 impaired victim, is the adoptive or biological parent or the legal guardian.

300 (10) "Dependent support" means the financial obligation of an individual to provide for
 301 the ~~§~~→ routine ←~~§~~ needs of a dependent, including food, clothing, health care, safety, or shelter.

302 [~~(8)~~] (11) "Diversion agreement" means an agreement entered into by the prosecuting
 303 attorney and the defendant that suspends criminal proceedings before conviction on the
 304 condition that a defendant agree to participate in a rehabilitation program, pay restitution to the

305 victim, or fulfill some other condition.

306 (12) "Incapacitated" or "incapacitation" means the individual is:

307 (a) mentally or physically impaired to the extent that the individual is permanently
308 unable to gain employment and provide basic necessities, including food, clothing, health care,
309 safety, or shelter; and

310 (b) reliant on a parent, legal guardian, or other relative or person to provide basic
311 necessities for the individual.

312 (13) "Incapacitated individual" means an individual who is incapacitated.

313 (14) "Legal guardian" means an individual appointed by a court to make decisions
314 regarding a child or an incapacitated individual.

315 (15) "Life expectancy" means the number of months an individual is or was expected
316 to live considering medical records and experiential data for the individual.

317 [~~(9)~~] (16) "Office" means the Office of State Debt Collection created in Section
318 63A-3-502.

319 [~~(10)~~] (17) "Payment schedule" means the same as that term is defined in Section
320 77-32b-102.

321 [~~(11)~~] (18) (a) "Pecuniary damages" means all demonstrable economic injury, losses,
322 and expenses regardless of whether the economic injury, losses, and expenses have yet been
323 incurred.

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

326 (19) "Permanently impaired victim" means an incapacitated individual whose
327 incapacitation is proximately caused by the criminal conduct of the defendant.

328 [~~(12)~~] (20) "Plea agreement" means an agreement entered between the prosecuting
329 attorney and the defendant setting forth the special terms and conditions and criminal charges
330 upon which the defendant will enter a plea of guilty or no contest.

331 [~~(13)~~] (21) "Plea disposition" means an agreement entered into between the
332 prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a
333 plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any
334 other jurisdiction or where charges are dismissed without a plea.

335 [~~(14)~~] (22) "Plea in abeyance" means an order by a court, upon motion of the

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

340 ~~[(15)]~~ (23) "Plea in abeyance agreement" means an agreement entered into between the
341 prosecuting attorney and the defendant setting forth the specific terms and conditions upon
342 which, following acceptance of the agreement by the court, a plea may be held in abeyance.

343 ~~[(16)]~~ (24) "Restitution" means the payment of pecuniary damages to a victim.

344 (25) "Unborn child" means a human fetus or embryo in any stage of gestation from
345 fertilization until birth.

346 ~~[(17)]~~ (26) (a) "Victim" means any person who has suffered pecuniary damages that are
347 proximately caused by the criminal conduct of the defendant.

348 (b) "Victim" includes:

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

351 (ii) the estate of a deceased victim; ~~[and]~~

352 (iii) a dependent; or

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

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

356 Section 7. Section **77-38b-202** is amended to read:

357 **77-38b-202. Prosecuting attorney responsibility for collecting restitution**

358 **information -- Depositing restitution on behalf of victim.**

359 (1) If a prosecuting attorney files a criminal charge against a defendant, the prosecuting
360 attorney shall:

361 (a) contact any known victim of the offense for which the criminal charge is filed, or
362 person asserting a claim for restitution on behalf of the victim; and

363 (b) gather the following information from the victim or person:

364 (i) the name of the victim or person; and

365 (ii) the actual or estimated amount of restitution.

366 (2) (a) When a conviction, a diversion agreement, or a plea in abeyance is entered by

367 the court, the prosecuting attorney shall provide the court with the information gathered by the
368 prosecuting attorney under Subsection (1)(b).

369 (b) If, at the time of the plea disposition or conviction, the prosecuting attorney does
370 not have all the information under Subsection (1)(b), the prosecuting attorney shall provide the
371 defendant with:

372 (i) at the time of plea disposition or conviction, all information under Subsection (1)(b)
373 that is reasonably available to the prosecuting attorney; and

374 (ii) any information under Subsection (1)(b) as the information becomes available to
375 the prosecuting attorney.

376 (c) Nothing in this section shall be construed to prevent a prosecuting attorney, a
377 victim, or a person asserting a claim for restitution on behalf of a victim from:

378 (i) submitting information on, or a request for, restitution to the court within the time
379 periods described in [~~Subsection 77-38b-205(5)~~] Section 77-38b-205; or

380 (ii) submitting information on, or a request for, restitution for additional or substituted
381 victims within the time periods described in [~~Subsection 77-38b-205(5)~~] Section 77-38b-205.

382 (3) (a) The prosecuting attorney may be authorized by the appropriate public treasurer
383 to deposit restitution collected on behalf of a victim into an interest-bearing account in
384 accordance with Title 51, Chapter 7, State Money Management Act, pending the distribution of
385 the funds to the victim.

386 (b) If restitution is deposited into an interest-bearing account under Subsection (3)(a),
387 the prosecuting attorney shall:

388 (i) distribute any interest that accrues in the account to each victim on a pro rata basis;
389 and

390 (ii) if all victims have been made whole and funds remain in the account, distribute any
391 remaining funds to the Division of Finance, created in Section 63A-3-101, to deposit to the
392 Utah Office for Victims of Crime.

393 (c) Nothing in this section prevents an independent judicial authority from collecting,
394 holding, and distributing restitution.

395 Section 8. Section **77-38b-205** is amended to read:

396 **77-38b-205. Order for restitution.**

397 (1) (a) If a defendant is convicted, as defined in Section 76-3-201, the court shall order

398 a defendant, as part of the sentence imposed under Section [76-3-201](#), to pay restitution to all
399 victims:

400 (i) in accordance with the terms of any plea agreement in the case; or

401 (ii) for the entire amount of pecuniary damages that are proximately caused to each
402 victim by the criminal conduct of the defendant.

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

406 (i) in accordance with the terms of the plea in abeyance or the diversion agreement; or

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

411 ~~[(e)]~~ (2) (a) ~~Ŝ~~ **→** ~~[H]~~ **Except as provided in Subsection (2)(b), in** ~~←Ŝ~~ determining the
411a amount of pecuniary damages under Subsection
412 (1)(a)(ii) or (b)(ii), the court shall consider all relevant facts to establish an amount that fully
413 compensates a victim for all pecuniary damages proximately caused by the criminal conduct of
414 the defendant.

415 (b) If the court determines that the defendant owes pecuniary damages to a dependent
416 for dependent support ~~Ŝ~~ **→** ~~[under Subsection (2)(a)]~~ ~~←Ŝ~~, the court shall establish the amount of
417 dependent support owed to the dependent as described in Section [77-38b-206](#).

417a ~~Ŝ~~ **→** **(c) Subsection (2)(b) does not prohibit the court from also ordering restitution for a victim**
417b **under Subsection (2)(a) that is not dependent support.** ~~←Ŝ~~

418 ~~[(d)]~~ (3) The court shall enter the determination of the amount of restitution under
419 Subsection (1)(a)(ii) or (b)(ii) as a finding on the record.

420 ~~[(2)]~~ (4) Upon an order for a defendant to pay restitution under Subsection (1), the
421 court shall:

422 (a) enter an order to establish a criminal accounts receivable as described in Section
423 [77-32b-103](#); and

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

426 ~~[(3)]~~ (5) If the defendant objects to a request for restitution, the court shall allow the
427 defendant to have a hearing on the issue, unless the issue is addressed at the sentencing hearing
428 for the defendant.

429 ~~[(4)]~~ (6) If a court does not enter an order for restitution at sentencing, the court shall
430 schedule a hearing to enter an order for restitution, unless:

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

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

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

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

437 ~~[(5)]~~ (7) (a) A court shall enter an order for restitution in a defendant's case no later
438 than the earlier of:

439 (i) the termination of the defendant's sentence, including early termination of the
440 defendant's sentence; or

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

444 (B) except as provided in Subsection ~~[(5)(a)(ii)(A)]~~ (7)(a)(ii)(A), and if the defendant
445 is convicted of a felony, within three years after the day on which the court sentences the
446 defendant for the felony conviction.

447 (b) A request for restitution that is made within the time period described in Subsection
448 ~~[(5)(a)]~~ (7)(a) tolls the time for which the court must enter an order for restitution under
449 Subsection ~~[(5)(a)]~~ (7)(a) but does not extend the term of the defendant's probation or period of
450 incarceration.

451 ~~[(6)]~~ (8) (a) If a court does not order restitution at sentencing or at a hearing described
452 in Subsection ~~[(4)]~~ (6), the prosecuting attorney or the victim may file a motion for restitution
453 within the time periods described in Subsection ~~[(5)]~~ (7).

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

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

459 ~~[(7)]~~ (9) Upon a motion from the prosecuting attorney or the victim within the time

460 periods described in Subsection [~~(5)~~] (7), the court may modify an existing order of restitution,
461 including the amount of pecuniary damages owed by the defendant in the order for restitution,
462 if the prosecuting attorney or the victim shows good cause for modifying the order.

463 Section 9. Section **77-38b-206** is enacted to read:

464 **77-38b-206. Calculating the amount of restitution owed for dependent support.**

465 (1) As used in this section:

466 (a) "Base combined child support obligation table" means the child support table
467 located in Section [78B-12-303](#).

468 (b) "Gross income" means the amount of income that would be calculated for a parent
469 for child support purposes as described in Section [78B-12-203](#).

470 (c) "Monthly income" means the amount of monthly income established for a deceased
471 victim, or a permanently impaired victim, under Subsection (3).

472 (2) If a defendant owes pecuniary damages to a dependent under Section [77-38b-205](#),
473 the court shall determine the entire amount of dependent support that the defendant owes a
474 dependent in accordance with this section.

475 (3) (a) For purposes of determining a defendant's monthly obligation under Subsection
476 (4), the court shall establish the monthly income of the deceased victim, or the permanently
477 impaired victim, by:

478 (i) calculating the deceased or permanently impaired victim's monthly gross income
479 before the victim's death or incapacitation; and

480 (ii) dividing the deceased or permanently impaired victim's monthly gross income in
481 half.

482 (b) If the amount calculated under Subsection (3)(a)(ii) is \$3,000 or less, the court shall
483 impute a monthly income of \$3,001 to the deceased or permanently impaired victim.

484 (c) If the amount calculated under Subsection (3)(a)(ii) is greater than \$3,000, the
485 deceased or permanently impaired victim's monthly income is the amount calculated under
486 Subsection (3)(a)(ii).

487 (4) To calculate the amount of pecuniary damages that a defendant owes a dependent
488 of a deceased victim for dependent support, the court shall:

489 (a) locate the monthly dependent support obligation in the base income child support
490 table using:

491 (i) the deceased victim's monthly income established under Subsection (3)(b) or (c);

492 and

493 (ii) the total number of dependents for which the defendant owes dependent support;

494 and

495 (b) multiply the monthly amount established under Subsection (4)(a) for the dependent

496 by:

497 (i) the number of months until the dependent is 18 years old and is graduated from high
498 school if the dependent is a child; or

499 (ii) the life expectancy of the dependent if the dependent is an incapacitated individual
500 who is 18 years old or older.

501 (5) To calculate the amount of pecuniary damages that a defendant owes a dependent
502 of a permanently impaired victim for dependent support, the court shall:

503 (a) locate the monthly dependent support obligation in the base income child support
504 table using:

505 (i) the permanently impaired victim's monthly income established under Subsection
506 (3)(b) or (c); and

507 (ii) the total number of dependents for which the defendant owes dependent support;

508 (b) multiply the monthly amount established under Subsection (5)(a) by the
509 permanently impaired victim's whole person impairment rating as determined by the most
510 recent edition of the American Medical Association's Guides to the Evaluation of Permanent
511 Impairment; and

512 (c) multiply the amount established under Subsection (5)(b) for the dependent by:

513 (i) the number of months until the dependent is 18 years old and is graduated from high
514 school if the dependent is a child who is younger than 18 years old; or

515 (ii) the life expectancy of the dependent if the dependent is an incapacitated individual
516 who is 18 years old or older.

517 (6) The deceased or permanently impaired victim's monthly income calculated under
518 Subsection (3) is the only income that may be used when locating the monthly dependent
519 support obligation in the base combined child support obligation table.

520 Section 10. Section **77-38b-303** is amended to read:

521 **77-38b-303. Effect of civil action or settlement for criminal conduct -- Issue**

522 **preclusion -- Crediting payments.**

523 (1) As used in this section:

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

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

529 (2) Nothing in this chapter shall be construed to limit or impair the right of a victim to
530 sue and recover damages from the defendant in a civil action.

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

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

539 (c) (i) Except as provided in Subsection (3)(c)(ii), if a defendant is convicted of a
540 misdemeanor or felony offense, the defendant is precluded from subsequently denying the
541 essential allegations of the offense in a subsequent civil action brought against the defendant
542 for the criminal conduct underlying the offense.

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

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

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

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

552 (5) (a) The sentencing court shall credit any payment made to a victim in a civil action

553 for the defendant's criminal conduct toward the amount of restitution owed by the defendant to
554 the victim.

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

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

561 (6) (a) If a victim prevails in a civil action against a defendant, the court shall award
562 reasonable attorney fees and costs to the victim.

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

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

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

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

576 (9) Notwithstanding Subsections (5) and (6), if a defendant owes dependent support to
577 a victim in an order for restitution:

578 (a) the defendant may not use any payment from a motor vehicle insurance policy to
579 satisfy any amount of dependent support owed by the defendant until all persons entitled to
580 recover in a civil action for the defendant's criminal conduct are made whole; and

581 (b) a court may not credit any payment from the defendant towards the amount of
582 dependent support owed by the defendant against any judgment that is in favor of the victim for
583 a civil action until all persons entitled to recover in a civil action for the defendant's criminal

584 conduct are made whole.

585 Section 11. **Effective date.**

586 This bill takes effect on May 1, 2024.