

Senator Michael S. Kennedy proposes the following substitute bill:

CRIMINAL ACCOUNTS RECEIVABLE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark A. Wheatley

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to a criminal accounts receivable.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a process to allow certain individuals to request a credit towards debt owed as part of a criminal judgment upon a payment of restitution;
- ▶ requires the Office of State Debt Collection to provide notice and written confirmation to certain individuals who are eligible for the credit;
- ▶ grants the Office of State Debt Collection with the authority to make rules regarding the administration of the credit;
- ▶ requires the Office of State Debt Collection to report to the Judiciary Interim Committee before November 30, 2025;
- ▶ clarifies the term, "criminal accounts receivable";
- ▶ provides that a defendant is required to pay \$50 per month towards a criminal accounts receivable when a court is unable to determine, or does not provide, an amount for the payment schedule; and
- ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill provides a special effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **77-32b-102**, as renumbered and amended by Laws of Utah 2021, Chapter 260

33 **77-32b-103**, as last amended by Laws of Utah 2023, Chapter 330

34 ENACTS:

35 **63A-3-508**, Utah Code Annotated 1953



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

38 Section 1. Section **63A-3-508** is enacted to read:

39 **63A-3-508. Written request to receive a credit for a restitution payment --**

40 **Eligibility requirements.**

41 (1) As used in this section:

42 (a) "Debt" means any amount that:

43 (i) an individual owes as part of a criminal judgment; and

44 (ii) is collected and managed by the office.

45 (b) "Eligible individual" means an individual who meets the requirements of

46 Subsection (2).

47 (c) "Qualifying debt" means a debt that is a fine, a fee, a surcharge, or any other money,
48 that is deposited into the General Fund by the state treasurer.

49 (d) "Voluntary payment" means a payment on a debt that is made before, or in the
50 absence of, a legal proceeding or administrative action to collect or enforce the collection of the
51 debt.

52 (2) An individual is eligible for a credit described in Subsection (3) if:

53 (a) the individual submits a written request, on or after May 1, 2024, and before May 1,
54 2026, to the office requesting the credit;

55 (b) the individual owes a debt of \$3,000 or greater at the time of the written request;

56 and

57 (c) the individual was sentenced before July 1, 2021, for a criminal judgment for which
58 the individual owes a debt.

59 (3) (a) If an eligible individual makes a voluntary payment toward any restitution owed
60 by the individual, the office shall issue a credit against any qualifying debt owed by the
61 individual in the amount of 75% of the amount applied to restitution.

62 (b) The office may issue the credit described in Subsection (3) to any voluntary
63 payment made towards restitution before the written request was submitted as described in
64 Subsection (2).

65 (4) The office shall provide:

66 (a) reasonable notice of eligibility before May 1, 2026, to any individual that may be
67 eligible for the credit as described in Subsection (2)(b) and (c); and

68 (b) if an individual submits a written request as described in Subsection (2)(a), a
69 written confirmation as to whether the individual is an eligible individual and will receive a
70 credit as described in Subsection (3).

71 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
72 office may make rules regarding the administration of this section.

73 (6) By no later than November 30, 2025, the office shall report to the Judiciary Interim
74 Committee on the outcomes of this section and whether the eligibility period described in
75 Subsection (2) should be extended beyond May 1, 2026.

76 (7) Nothing in this section authorizes the office to reimburse or refund an individual
77 for any payment on a debt.

78 Section 2. Section **77-32b-102** is amended to read:

79 **77-32b-102. Definitions.**

80 As used in this chapter:

81 (1) "Board" means the Board of Pardons and Parole.

82 (2) (a) "Civil accounts receivable" means any amount of the criminal accounts
83 receivable that is owed by the defendant that has not been paid on or before the day on which:

84 (i) the defendant's sentence is terminated; or

85 (ii) the court enters an order for a civil accounts receivable under Subsection

86 **77-18-114**(1) or (2).

87 (b) "Civil accounts receivable" does not include any amount of the criminal accounts

88 receivable that is owed by the defendant for restitution.

89 (3) "Civil judgment of restitution" means any amount of the criminal accounts
90 receivable that is owed by the defendant for restitution that has not been paid on or before the
91 day on which the defendant's sentence is terminated.

92 (4) (a) "Criminal accounts receivable" means any amount owed by a defendant that
93 arises from a criminal judgment until:

94 (i) the defendant's sentence terminates;

95 (ii) the court enters an order for a civil accounts receivable under Subsection

96 [77-18-114](#)(1) or (2); or

97 (iii) if the court requires the defendant, upon termination of the probation period for the
98 defendant, to continue to make payments on the criminal accounts as described in Subsection
99 [77-18-105](#)(8), the defendant's sentence expires.

100 (b) "Criminal accounts receivable" includes any unpaid:

101 (i) fee, including the monthly supervision fee described in Subsection [64-13-21](#)(6);

102 (ii) forfeiture;

103 (iii) surcharges;

104 (iv) cost;

105 (v) interest;

106 (vi) penalty;

107 (vii) restitution;

108 (viii) third party claim;

109 (ix) reimbursement of a reward; and

110 (x) damages.

111 [~~(b) "Criminal accounts receivable" includes unpaid fees, forfeitures, surcharges, costs,~~
112 ~~interest, penalties, restitution, third party claims, claims, reimbursement of a reward, and~~
113 ~~damages.]~~

114 (5) "Default" means a civil accounts receivable, a civil judgment of restitution, or a
115 criminal accounts receivable that is overdue by at least 90 days.

116 (6) "Delinquent" means a civil accounts receivable, a civil judgment of restitution, or a
117 criminal account receivable that is overdue by more than 28 days but less than 90 days.

118 (7) "Payment schedule" means the amount that is be paid by a defendant in

119 installments, or by a certain date, to satisfy a criminal accounts receivable for the defendant.

120 (8) "Remit" or "remission" means to forgive or to excuse, in whole or in part, any
121 unpaid amount of a criminal accounts receivable.

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

123 Section 3. Section **77-32b-103** is amended to read:

124 **77-32b-103. Establishment of a criminal accounts receivable -- Responsibility --**
125 **Payment schedule -- Delinquency or default.**

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

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

132 (c) Subject to Subsection [77-38b-205\(5\)](#), if the court does not create a criminal
133 accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to
134 establish a criminal accounts receivable for the defendant at the time the court enters an order
135 for restitution under Section [77-38b-205](#).

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

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

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

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

142 (b) for all other cases:

143 (i) retain the responsibility for receiving, processing, and distributing payments for the
144 criminal accounts receivable until the court enters a civil accounts receivable or civil judgment
145 of restitution on the civil judgment docket under Subsection [77-18-114\(1\)](#) or (2); and

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

147 (c) For a criminal accounts receivable that a court retains responsibility for receiving,
148 processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may
149 establish rules to require a defendant to pay the cost, or a portion of the cost, for an electronic

150 payment fee that is charged by a financial institution for the use of a credit or debit card to
151 make payments towards the criminal accounts receivable.

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

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

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

158 (ii) the financial resources of the defendant, as disclosed in the financial declaration
159 under Section 77-38b-204 or in evidence obtained by subpoena under Subsection
160 77-38b-402(1)(b);

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

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

165 (v) the rehabilitative effect on the defendant of the payment of restitution and method
166 of payment; and

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

168 (c) If the court is unable to determine the appropriate amount for the payment schedule
169 or does not set an amount for the payment schedule, the defendant is required to pay \$50 per
170 month towards the criminal accounts receivable.

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

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

177 (6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as
178 defined in Section 64-13-1, or the defendant is involuntarily committed under Section
179 26B-5-332:

180 (i) all payments for a payment schedule shall be suspended for the period of time that

181 the defendant is incarcerated or involuntarily committed, unless the court, or the board if the
182 defendant is under the jurisdiction of the board, expressly orders the defendant to make
183 payments according to the payment schedule; and

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

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

188 Section 4. **Effective date.**

189 This bill takes effect on July 1, 2024.