

HB0021S01 compared with HB0021

~~{deleted text}~~ shows text that was in HB0021 but was deleted in HB0021S01.

inserted text shows text that was not in HB0021 but was inserted into HB0021S01.

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.

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

~~{Committee Note:~~

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

~~—————Legislative Vote: 13 voting for 0 voting against 4 absent~~

~~{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;

HB0021S01 compared with HB0021

- ▶ 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.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

ENACTS:

63A-3-508, Utah Code Annotated 1953

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

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

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

Eligibility requirements.

(1) As used in this section:

(a) "Debt" means any amount that:

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

(ii) is collected and managed by the office.

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

Subsection (2).

(c) "Qualifying debt" means a debt that is a fine, a fee, a surcharge, or any other money,

HB0021S01 compared with HB0021

that is deposited into the General Fund by the state treasurer.

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

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

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

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

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

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

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

(4) The office shall provide:

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

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

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

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

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

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

HB0021S01 compared with HB0021

77-32b-102. Definitions.

As used in this chapter:

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

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

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

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

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

(b) "Civil accounts receivable" does not include any amount of the criminal accounts receivable that is owed by the defendant for restitution.

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

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

(i) the defendant's sentence terminates;

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

77-18-114(1) or (2); or

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

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

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

(ii) forfeiture;

(iii) surcharge;

(iv) cost;

(v) interest;

(vi) penalty;

(vii) restitution;

(viii) third party claim;

(ix) reimbursement of a reward; and

HB0021S01 compared with HB0021

(x) damages.

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

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

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

(7) "Payment schedule" means the amount that is to be paid by a defendant in installments, or by a certain date, to satisfy a criminal accounts receivable for the defendant.

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

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

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

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

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

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

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

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

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

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

(ii) transfer the responsibility of receiving, distributing, and processing payments for

HB0021S01 compared with HB0021

the criminal accounts receivable to the Office of State Debt Collection; and

(b) for all other cases:

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

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

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

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

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

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

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

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

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

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

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

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

(4) A payment schedule for a criminal accounts receivable does not limit the ability of

HB0021S01 compared with HB0021

a judgment creditor to pursue collection by any means allowable by law.

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

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

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

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

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

Section 4. **Effective date.**

This bill takes effect on ~~May~~ July 1, 2024.