

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 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 [~~(9)~~] (15) "Office" means the Office of State Debt Collection created in Section
316 63A-3-502.

317 [~~(10)~~] (16) "Payment schedule" means the same as that term is defined in Section
318 77-32b-102.

319 [~~(11)~~] (17) (a) "Pecuniary damages" means all demonstrable economic injury, losses,
320 and expenses regardless of whether the economic injury, losses, and expenses have yet been
321 incurred.

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

324 (18) "Permanently impaired victim" means an incapacitated individual whose
325 incapacitation is proximately caused by the criminal conduct of the defendant.

326 [~~(12)~~] (19) "Plea agreement" means an agreement entered between the prosecuting
327 attorney and the defendant setting forth the special terms and conditions and criminal charges
328 upon which the defendant will enter a plea of guilty or no contest.

329 [~~(13)~~] (20) "Plea disposition" means an agreement entered into between the
330 prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a
331 plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any
332 other jurisdiction or where charges are dismissed without a plea.

333 [~~(14)~~] (21) "Plea in abeyance" means an order by a court, upon motion of the
334 prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the
335 defendant but not, at that time, entering judgment of conviction against the defendant nor

336 imposing sentence upon the defendant on condition that the defendant comply with specific
337 conditions as set forth in a plea in abeyance agreement.

338 ~~[(+5)]~~ (22) "Plea in abeyance agreement" means an agreement entered into between the
339 prosecuting attorney and the defendant setting forth the specific terms and conditions upon
340 which, following acceptance of the agreement by the court, a plea may be held in abeyance.

341 ~~[(+6)]~~ (23) "Restitution" means the payment of pecuniary damages to a victim.

342 (24) "Unborn child" means a human fetus or embryo in any stage of gestation from
343 fertilization until birth.

344 ~~[(+7)]~~ (25) (a) "Victim" means any person who has suffered pecuniary damages that are
345 proximately caused by the criminal conduct of the defendant.

346 (b) "Victim" includes:

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

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

350 (iii) a dependent; or

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

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

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

355 **77-38b-202. Prosecuting attorney responsibility for collecting restitution**

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

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

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

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

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

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

364 (2) (a) When a conviction, a diversion agreement, or a plea in abeyance is entered by
365 the court, the prosecuting attorney shall provide the court with the information gathered by the
366 prosecuting attorney under Subsection (1)(b).

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

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

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

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

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

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

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

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

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

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

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

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

394 **77-38b-205. Order for restitution.**

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

398 (i) in accordance with the terms of any plea agreement in the case; or
399 (ii) for the entire amount of pecuniary damages that are proximately caused to each
400 victim by the criminal conduct of the defendant.

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

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

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

409 ~~[(e)]~~ (2) (a) In determining the amount of pecuniary damages under Subsection
410 (1)(a)(ii) or (b)(ii), the court shall consider all relevant facts to establish an amount that fully
411 compensates a victim for all pecuniary damages proximately caused by the criminal conduct of
412 the defendant.

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

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

418 ~~[(2)]~~ (4) Upon an order for a defendant to pay restitution under Subsection (1), the
419 court shall:

420 (a) enter an order to establish a criminal accounts receivable as described in Section
421 [77-32b-103](#); and

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

424 ~~[(3)]~~ (5) If the defendant objects to a request for restitution, the court shall allow the
425 defendant to have a hearing on the issue, unless the issue is addressed at the sentencing hearing
426 for the defendant.

427 ~~[(4)]~~ (6) If a court does not enter an order for restitution at sentencing, the court shall
428 schedule a hearing to enter an order for restitution, unless:

- 429 (a) the court finds as a matter of law that there is no victim in the case; or
- 430 (b) the prosecuting attorney certifies to the court, on the record, that:
 - 431 (i) the prosecuting attorney has consulted with all victims, including the Utah Office
 - 432 for Victims of Crime; and
 - 433 (ii) all victims, including the Utah Office for Victims of Crime, are not seeking
 - 434 restitution.

435 ~~[(5)]~~ (7) (a) A court shall enter an order for restitution in a defendant's case no later

436 than the earlier of:

- 437 (i) the termination of the defendant's sentence, including early termination of the
- 438 defendant's sentence; or
- 439 (ii) (A) if the defendant is convicted and imprisoned for a first degree felony, within
- 440 seven years after the day on which the court sentences the defendant for the first degree felony
- 441 conviction; or
- 442 (B) except as provided in Subsection ~~[(5)(a)(ii)(A)]~~ (7)(a)(ii)(A), and if the defendant
- 443 is convicted of a felony, within three years after the day on which the court sentences the
- 444 defendant for the felony conviction.

445 (b) A request for restitution that is made within the time period described in Subsection

446 ~~[(5)(a)]~~ (7)(a) tolls the time for which the court must enter an order for restitution under

447 Subsection ~~[(5)(a)]~~ (7)(a) but does not extend the term of the defendant's probation or period of

448 incarceration.

449 ~~[(6)]~~ (8) (a) If a court does not order restitution at sentencing or at a hearing described

450 in Subsection ~~[(4)]~~ (6), the prosecuting attorney or the victim may file a motion for restitution

451 within the time periods described in Subsection ~~[(5)]~~ (7).

452 (b) If the defendant receives notice and does not object to a motion for restitution, the

453 court may order restitution without a hearing.

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

455 may schedule a hearing to determine whether restitution should be ordered if the prosecuting

456 attorney or victim shows good cause.

457 ~~[(7)]~~ (9) Upon a motion from the prosecuting attorney or the victim within the time

458 periods described in Subsection ~~[(5)]~~ (7), the court may modify an existing order of restitution,

459 including the amount of pecuniary damages owed by the defendant in the order for restitution,

460 if the prosecuting attorney or the victim shows good cause for modifying the order.

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

462 **77-38b-206. Calculating the amount of restitution owed for dependent support.**

463 (1) As used in this section:

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

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

468 (c) "Monthly income" means the amount of monthly income established for a
469 defendant under Subsection (3).

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

473 (3) (a) For purposes of determining a defendant's monthly obligation under Subsection
474 (4), the court shall establish the defendant's monthly income by:

475 (i) calculating the defendant's monthly gross income; and

476 (ii) dividing the defendant's monthly gross income in half.

477 (b) If the amount calculated under Subsection (3)(a)(ii) is \$3,000 or less, the court shall
478 impute a monthly income of \$3,001 to the defendant.

479 (c) If the amount calculated under Subsection (3)(a)(ii) is greater than \$3,000, the
480 defendant's monthly income is the amount calculated under Subsection (3)(a)(ii).

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

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

485 (i) the defendant's monthly income established under Subsection (3)(b) or (c); and

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

487 and

488 (b) multiply the monthly amount established under Subsection (4)(a) for the dependent
489 by:

490 (i) the number of months until the dependent is 18 years old and is graduated from high

491 school if the dependent is a child; or

492 (ii) 216 if the dependent is an incapacitated individual who is 18 years old or older.

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

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

497 (i) the defendant's monthly income established under Subsection (3)(b) or (c); and

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

499 (b) multiply the monthly amount established under Subsection (5)(a) by the
500 permanently impaired victim's whole person impairment rating as determined by the most

501 recent edition of the American Medical Association's Guides to the Evaluation of Permanent
502 Impairment; and

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

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

506 (ii) by 216 if the dependent is an incapacitated individual.

507 (6) The defendant's monthly income calculated under Subsection (3) is the only income
508 that may be used when locating the monthly dependent support obligation in the base combined
509 child support obligation table.

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

511 **77-38b-303. Effect of civil action or settlement for criminal conduct -- Issue**
512 **preclusion -- Crediting payments.**

513 (1) As used in this section:

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

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

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

521 (3) (a) A court's finding on the amount of restitution owed by a defendant under

522 Subsection [~~77-38b-205(1)(d)~~] 77-38b-205(3) may be used in a civil action pertaining to the
523 defendant's liability to a victim as presumptive proof of the victim's pecuniary damages that are
524 proximately caused by the defendant's criminal conduct.

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

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

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

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

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

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

542 (5) (a) The sentencing court shall credit any payment made to a victim in a civil action
543 for the defendant's criminal conduct toward the amount of restitution owed by the defendant to
544 the victim.

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

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

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

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

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

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

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

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

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

571 (b) a court may not credit any payment from the defendant towards the amount of
572 dependent support owed by the defendant against any judgment that is in favor of the victim for
573 a civil action until all persons entitled to recover in a civil action for the defendant's criminal
574 conduct are made whole.

575 Section 11. **Effective date.**

576 This bill takes effect on May 1, 2024.