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CRIMINAL JUSTICE MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to sentencing, probation, parole, and court-ordered restitution, fines, fees, and other costs.

Highlighted Provisions:

This bill:

- ▶ defines and modifies terms;
- ▶ modifies the duties of the Office of State Debt Collection in relation to processing and collecting payments in criminal cases;
- ▶ prohibits the Office of State Debt Collection from assessing interest on certain accounts receivables;
- ▶ amends provisions on interest, fees, and other amounts charged by the Office of State Debt Collection;
- ▶ authorizes the Office of State Debt Collection to make certain rules regarding a payment for a civil judgment of restitution;
- ▶ amends provisions regarding the State Debt Collection Fund;
- ▶ provides that an administrative garnishment order for a civil accounts receivable or a civil judgment of restitution is a continuation of a criminal action;
- ▶ amends provisions regarding a restitution request from the Office for Victims of Crime;
- ▶ addresses the collection of an accounts receivable by the Department of Corrections;
- ▶ amends provisions regarding accounts for offenders who are in the custody of the Department of Corrections;

- 30 ▶ allows the Department of Corrections to establish a fine for a violation of
31 department rules and to require the offender to pay the fine;
- 32 ▶ amends the exceptions to a spendthrift provision of a trust to allow the Office of
33 State Debt Collection to obtain a court order for a distribution;
- 34 ▶ amends the orders that a court imposes at sentencing;
- 35 ▶ requires the court to order restitution, and to collect, receive, process, and distribute
36 payments for restitution, for a diversion agreement and a plea in abeyance
37 agreement;
- 38 ▶ requires a court to order restitution if a defendant does not successfully complete a
39 plea in abeyance agreement;
- 40 ▶ reorganizes and renumbers Title 77, Chapter 18, The Judgment;
- 41 ▶ amends provisions on presentence investigation reports;
- 42 ▶ amends provisions on the suspension of a sentence and the terms and conditions of
43 probation;
- 44 ▶ amends provisions regarding home confinement for a probationer;
- 45 ▶ amends provisions regarding the termination, revocation, modification, or extension
46 of probation;
- 47 ▶ amends provisions regarding standards for supervision and presentence
48 investigation reports;
- 49 ▶ requires a court to enter a civil accounts receivable and a civil judgment of
50 restitution upon the termination of a defendant's sentence if there is an unpaid
51 balance of the defendant's criminal accounts receivable;
- 52 ▶ requires the court to enter a civil accounts receivable and a civil judgment of
53 restitution if a defendant does not owe restitution and the defendant's criminal
54 accounts receivable is 90 days past due;
- 55 ▶ enacts provisions regarding civil accounts receivables and civil judgments of
56 restitution;
- 57 ▶ allows the sentencing court to retain jurisdiction over a defendant's case for certain

- 58 reasons;
- 59 ▶ repeals the authority of the Board of Pardons and Parole to enter an order for
60 restitution;
- 61 ▶ allows the Board of Pardons and Parole to remit a criminal accounts receivable and
62 modify a payment schedule for a criminal accounts receivable;
- 63 ▶ amends provisions on the conditions for parole;
- 64 ▶ provides that a defendant may be required to pay a criminal accounts receivable
65 during incarceration or parole supervision;
- 66 ▶ requires the Board of Pardons and Parole to refer an offender's case to the
67 sentencing court if an order for restitution or a criminal accounts receivable has not
68 been entered by the court within certain time periods;
- 69 ▶ requires the Board of Pardons and Parole to refer an offender's case to the
70 sentencing court for any challenges to the defendant's criminal accounts receivable;
- 71 ▶ provides certain notice requirements for a modification of a criminal accounts
72 receivable;
- 73 ▶ allows the Board of Pardons and Parole to enter an order to recover certain
74 damages;
- 75 ▶ amends provisions related to extradition costs for a defendant;
- 76 ▶ reorganizes and renumbers Title 77, Chapter 32a, Criminal Accounts Receivable
77 and Defense Costs;
- 78 ▶ enacts provisions relating to criminal accounts receivables;
- 79 ▶ modifies provisions regarding costs that a defendant may be ordered to pay;
- 80 ▶ allows for the remittance or modification of a criminal accounts receivable in
81 certain circumstances;
- 82 ▶ provides the requirements for remittance or modification of a criminal accounts
83 receivable, or modification of a payment schedule for a criminal accounts
84 receivable;
- 85 ▶ provides that certain victim information maintained by the Utah State Courts is

- 86 classified as protected;
- 87 ▶ provides that victim contact information and impact statement is available to the
- 88 Utah State Courts;
- 89 ▶ requires a victim to provide contact information to the court for restitution and
- 90 hearing purposes;
- 91 ▶ reorganizes and renumbers Title 77, Chapter 38a, Crime Victims Restitution Act;
- 92 ▶ enacts provisions relating to restitution information collected by a law enforcement
- 93 agency;
- 94 ▶ enacts provisions relating to a prosecuting attorney's responsibilities for gathering
- 95 restitution information and depositing restitution money;
- 96 ▶ enacts provisions on the Department of Correction's responsibilities in preparing the
- 97 presentence investigation report with restitution information;
- 98 ▶ requires a victim to submit certain information in a restitution claim;
- 99 ▶ addresses protecting a victim's identity, and a victim's family's identity, in
- 100 information submitted to the court for restitution purposes;
- 101 ▶ allows a defendant to view protected, safeguarded, or confidential information about
- 102 a victim or a victim's family in certain circumstances;
- 103 ▶ amends provisions related to a financial declaration by a defendant;
- 104 ▶ enacts provisions relating to an order for restitution;
- 105 ▶ enacts provisions related to the enforceability, nature, effect, and satisfaction of a
- 106 civil judgment of restitution and a civil accounts receivable;
- 107 ▶ addresses interest on a civil judgment of restitution and civil accounts receivable;
- 108 ▶ addresses the default or delinquency of a civil accounts receivable and a civil
- 109 judgment of restitution;
- 110 ▶ provides that a civil judgment of restitution and a civil accounts receivable may not
- 111 be discharged in bankruptcy;
- 112 ▶ addresses a civil action for restitution by a victim;
- 113 ▶ addresses the priority of payments for a restitution, a criminal accounts receivable, a

- 114 civil judgment of restitution, and a civil accounts receivable;
- 115 ▶ amends provisions regarding the enforcement and collection of restitution;
- 116 ▶ addresses contempt of court for delinquency or default of a civil accounts receivable
- 117 or a civil judgment of restitution;
- 118 ▶ repeals statutes relating to restitution, probation, and criminal accounts receivables;
- 119 and
- 120 ▶ makes technical and conforming changes.

121 Money Appropriated in this Bill:

122 None

123 Other Special Clauses:

124 This bill provides a special effective date.

125 This bill provides coordination clauses.

126 Utah Code Sections Affected:

127 AMENDS:

- 128 **17-50-319**, as last amended by Laws of Utah 2016, Chapter 243
- 129 **32B-4-305**, as enacted by Laws of Utah 2010, Chapter 276
- 130 **58-50-2**, as last amended by Laws of Utah 2006, Chapter 196
- 131 **58-50-9**, as last amended by Laws of Utah 1995, Chapters 20 and 352
- 132 **58-50-10**, as last amended by Laws of Utah 1995, Chapters 20 and 352
- 133 **59-10-529**, as last amended by Laws of Utah 2017, Chapter 270
- 134 **62A-15-625**, as last amended by Laws of Utah 2018, Chapter 322
- 135 **63A-3-501**, as last amended by Laws of Utah 2016, Chapters 129 and 298
- 136 **63A-3-502**, as last amended by Laws of Utah 2017, Chapters 56 and 304
- 137 **63A-3-504**, as renumbered and amended by Laws of Utah 2011, Chapter 79
- 138 **63A-3-505**, as last amended by Laws of Utah 2016, Chapter 192
- 139 **63A-3-507**, as last amended by Laws of Utah 2019, Chapter 269
- 140 **63I-1-263**, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230,
- 141 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws

142 of Utah 2020, Chapter 360
143 **63M-7-303**, as last amended by Laws of Utah 2018, Chapter 414
144 **63M-7-305**, as last amended by Laws of Utah 2016, Chapters 158 and 191
145 **63M-7-502**, as last amended by Laws of Utah 2020, Chapters 149 and 230
146 **63M-7-503**, as last amended by Laws of Utah 2020, Chapter 149
147 **63M-7-513**, as last amended by Laws of Utah 2020, Chapter 149
148 **64-13-1**, as last amended by Laws of Utah 2016, Chapter 243
149 **64-13-6**, as last amended by Laws of Utah 2018, Chapter 200
150 **64-13-21**, as last amended by Laws of Utah 2019, Chapter 27
151 **64-13-23**, as last amended by Laws of Utah 2002, Chapter 140
152 **64-13-33**, as last amended by Laws of Utah 2009, Chapter 258
153 **64-13e-102**, as last amended by Laws of Utah 2020, Chapters 354 and 410
154 **75-7-503**, as last amended by Laws of Utah 2018, Chapter 116
155 **76-2-404**, as last amended by Laws of Utah 2015, Chapter 47
156 **76-3-208**, as last amended by Laws of Utah 2019, Chapter 222
157 **76-3-301.5**, as enacted by Laws of Utah 1988, Chapter 152
158 **76-3-406**, as last amended by Laws of Utah 2020, Chapter 214
159 **76-6-107.1**, as renumbered and amended by Laws of Utah 2008, Chapter 3
160 **76-6-111**, as last amended by Laws of Utah 2017, Chapter 345
161 **76-6-206.2**, as last amended by Laws of Utah 2009, Chapter 344
162 **76-6-206.3**, as enacted by Laws of Utah 2009, Chapter 270
163 **76-6-1102**, as last amended by Laws of Utah 2015, Chapter 258
164 **76-6-1105**, as last amended by Laws of Utah 2018, Chapter 221
165 **76-10-1204**, as last amended by Laws of Utah 2009, Chapter 345
166 **76-10-1205**, as last amended by Laws of Utah 2007, Chapter 337
167 **76-10-1206**, as last amended by Laws of Utah 2019, Chapters 189 and 382
168 **76-10-1214**, as last amended by Laws of Utah 1990, Chapter 163
169 **76-10-1228**, as last amended by Laws of Utah 2007, Chapter 123

170 [77-1-3](#), as last amended by Laws of Utah 2015, Chapter 412
171 [77-2-2](#), as enacted by Laws of Utah 1980, Chapter 15
172 [77-2-5](#), as enacted by Laws of Utah 1980, Chapter 15
173 [77-2a-1](#), as enacted by Laws of Utah 1993, Chapter 82
174 [77-2a-3](#), as last amended by Laws of Utah 2008, Chapters 3, 339, and 382
175 [77-7-5](#), as last amended by Laws of Utah 2019, Chapter 406
176 [77-7-21](#), as last amended by Laws of Utah 2020, Chapter 185
177 [77-19-10](#), as last amended by Laws of Utah 2015, Chapter 47
178 [77-20-4](#), as last amended by Laws of Utah 2020, Chapter 185
179 [77-20b-101](#), as last amended by Laws of Utah 2020, Chapter 185
180 [77-27-1](#), as last amended by Laws of Utah 2015, Chapter 412
181 [77-27-2](#), as last amended by Laws of Utah 2020, Chapters 352 and 373
182 [77-27-5](#), as last amended by Laws of Utah 2019, Chapter 148
183 [77-27-11](#), as last amended by Laws of Utah 2018, Chapter 334
184 [77-30-24](#), as last amended by Laws of Utah 1987, Chapter 107
185 [77-37-3](#), as last amended by Laws of Utah 2014, Chapter 232
186 [77-37-5](#), as last amended by Laws of Utah 2011, Chapter 131
187 [77-38-3](#), as last amended by Laws of Utah 2016, Chapter 223
188 [77-38-15](#), as last amended by Laws of Utah 2019, Chapter 26
189 [77-40-102](#), as last amended by Laws of Utah 2020, Chapter 354
190 [77-40-105](#), as last amended by Laws of Utah 2020, Chapters 177 and 218
191 [78A-2-214](#), as last amended by Laws of Utah 2011, Chapter 79
192 [78A-2-231](#), as last amended by Laws of Utah 2020, Chapter 12
193 [78B-2-115](#), as last amended by Laws of Utah 2017, Chapter 304
194 [78B-5-502](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
195 [78B-5-505](#), as last amended by Laws of Utah 2020, Chapter 425
196 [78B-6-317](#), as enacted by Laws of Utah 2017, Chapter 304
197 [78B-7-804](#), as enacted by Laws of Utah 2020, Chapter 142

198 ENACTS:

- 199 **77-18-101**, Utah Code Annotated 1953
- 200 **77-18-102**, Utah Code Annotated 1953
- 201 **77-18-103**, Utah Code Annotated 1953
- 202 **77-18-105**, Utah Code Annotated 1953
- 203 **77-18-106**, Utah Code Annotated 1953
- 204 **77-18-107**, Utah Code Annotated 1953
- 205 **77-18-108**, Utah Code Annotated 1953
- 206 **77-18-109**, Utah Code Annotated 1953
- 207 **77-18-114**, Utah Code Annotated 1953
- 208 **77-18-118**, Utah Code Annotated 1953
- 209 **77-27-6.1**, Utah Code Annotated 1953
- 210 **77-32b-101**, Utah Code Annotated 1953
- 211 **77-32b-103**, Utah Code Annotated 1953
- 212 **77-32b-105**, Utah Code Annotated 1953
- 213 **77-32b-106**, Utah Code Annotated 1953
- 214 **77-38b-201**, Utah Code Annotated 1953
- 215 **77-38b-202**, Utah Code Annotated 1953
- 216 **77-38b-203**, Utah Code Annotated 1953
- 217 **77-38b-205**, Utah Code Annotated 1953
- 218 **77-38b-301**, Utah Code Annotated 1953
- 219 **77-38b-302**, Utah Code Annotated 1953
- 220 **77-38b-303**, Utah Code Annotated 1953

221 REPEALS AND REENACTS:

- 222 **76-3-201**, as last amended by Laws of Utah 2017, Chapter 304

223 RENUMBERS AND AMENDS:

- 224 **77-2-2.1**, (Renumbered from 77-2-1, as enacted by Laws of Utah 1980, Chapter 15)
- 225 **77-2-2.2**, (Renumbered from 77-2-1.1, as enacted by Laws of Utah 1992, Chapter 33)

226 **77-2-2.3**, (Renumbered from 77-2-1.2, as enacted by Laws of Utah 2020, Chapter 151)
227 **77-18-104**, (Renumbered from 77-18-1.1, as last amended by Laws of Utah 2016,
228 Chapter 158)
229 **77-18-110**, (Renumbered from 77-18-3, as last amended by Laws of Utah 2008,
230 Chapter 3)
231 **77-18-111**, (Renumbered from 77-18-4, as last amended by Laws of Utah 1994,
232 Chapter 13)
233 **77-18-112**, (Renumbered from 77-18-5, as last amended by Laws of Utah 1994,
234 Chapter 13)
235 **77-18-113**, (Renumbered from 77-18-5.5, as last amended by Laws of Utah 2015,
236 Chapter 47)
237 **77-18-115**, (Renumbered from 77-18-6.5, as enacted by Laws of Utah 1997, Chapter
238 223)
239 **77-18-116**, (Renumbered from 77-18-7, as enacted by Laws of Utah 1980, Chapter 15)
240 **77-18-117**, (Renumbered from 77-18-8, as enacted by Laws of Utah 1980, Chapter 15)
241 **77-32b-102**, (Renumbered from 77-32a-101, as enacted by Laws of Utah 2017, Chapter
242 304)
243 **77-32b-104**, (Renumbered from 77-32a-107, as renumbered and amended by Laws of
244 Utah 2017, Chapter 304)
245 **77-32b-107**, (Renumbered from 77-32a-110, as renumbered and amended by Laws of
246 Utah 2017, Chapter 304)
247 **77-38b-101**, (Renumbered from 77-38a-101, as enacted by Laws of Utah 2001, Chapter
248 137)
249 **77-38b-102**, (Renumbered from 77-38a-102, as last amended by Laws of Utah 2020,
250 Chapter 214)
251 **77-38b-204**, (Renumbered from 77-38a-204, as enacted by Laws of Utah 2013, Chapter
252 74)
253 **77-38b-304**, (Renumbered from 77-38a-404, as last amended by Laws of Utah 2020,

254 Chapter 214)
255 **77-38b-401**, (Renumbered from 77-38a-502, as enacted by Laws of Utah 2001, Chapter
256 137)
257 **77-38b-402**, (Renumbered from 77-38a-601, as last amended by Laws of Utah 2009,
258 Chapter 265)
259 **REPEALS:**
260 **76-6-412.5**, as last amended by Laws of Utah 2013, Chapter 187
261 **77-18-1**, as last amended by Laws of Utah 2020, Chapters 209, 299, and 354
262 **77-18-6**, as last amended by Laws of Utah 2017, Chapter 304
263 **77-27-6**, as last amended by Laws of Utah 2016, Chapter 223
264 **77-32a-102**, as last amended by Laws of Utah 2018, Chapters 136 and 281
265 **77-32a-103**, as enacted by Laws of Utah 2017, Chapter 304
266 **77-32a-104**, as enacted by Laws of Utah 2017, Chapter 304
267 **77-32a-105**, as enacted by Laws of Utah 2017, Chapter 304
268 **77-32a-106**, as enacted by Laws of Utah 2017, Chapter 304
269 **77-32a-108**, as renumbered and amended by Laws of Utah 2017, Chapter 304
270 **77-32a-109**, as renumbered and amended by Laws of Utah 2017, Chapter 304
271 **77-38a-201**, as enacted by Laws of Utah 2001, Chapter 137
272 **77-38a-202**, as last amended by Laws of Utah 2011, Chapter 131
273 **77-38a-203**, as last amended by Laws of Utah 2013, Chapter 74
274 **77-38a-301**, as last amended by Laws of Utah 2017, Chapter 304
275 **77-38a-302**, as last amended by Laws of Utah 2020, Chapter 214
276 **77-38a-401**, as last amended by Laws of Utah 2018, Chapter 281
277 **77-38a-402**, as enacted by Laws of Utah 2001, Chapter 137
278 **77-38a-403**, as enacted by Laws of Utah 2001, Chapter 137
279 **77-38a-501**, as last amended by Laws of Utah 2017, Chapter 304
280 **Utah Code Sections Affected by Coordination Clause:**
281 **76-9-101**, as last amended by Laws of Utah 1997, Chapter 289

282 [77-18-108](#), Utah Code Annotated 1953
283 [77-27-5](#), as last amended by Laws of Utah 2019, Chapter 148

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

286 Section 1. Section **17-50-319** is amended to read:

287 **17-50-319. County charges enumerated.**

288 (1) County charges are:

289 (a) [~~those~~] charges incurred against the county by any law;

290 (b) the necessary expenses of the county attorney or district attorney incurred in
291 criminal cases arising in the county, and all other expenses necessarily incurred by the county
292 or district attorney in the prosecution of criminal cases, except jury and witness fees;

293 (c) the expenses of medical care as described in Section [17-22-8](#), and other expenses
294 necessarily incurred in the support of persons charged with or convicted of a criminal offense
295 and committed to the county jail, except as provided in Subsection (2);

296 (d) for a county not within the state district court administrative system, the sum
297 required by law to be paid jurors in civil cases;

298 (e) all charges and accounts for services rendered by any justice court judge for
299 services in the trial and examination of persons charged with a criminal offense not otherwise
300 provided for by law;

301 (f) the contingent expenses necessarily incurred for the use and benefit of the county;

302 (g) every other sum directed by law to be raised for any county purposes under the
303 direction of the county legislative body or declared a county charge;

304 (h) the fees of constables for services rendered in criminal cases;

305 (i) the necessary expenses of the sheriff and deputies incurred in civil and criminal
306 cases arising in the county, and all other expenses necessarily incurred by the sheriff and
307 deputies in performing the duties imposed upon them by law;

308 (j) the sums required by law to be paid by the county to jurors and witnesses serving at
309 inquests and in criminal cases in justice courts; and

310 (k) subject to Subsection (2), expenses incurred by a health care facility or provider in
311 providing medical services, treatment, hospitalization, or related transportation, at the request
312 of a county sheriff for:

313 (i) persons booked into a county jail on a charge of a criminal offense; or

314 (ii) persons convicted of a criminal offense and committed to a county jail.

315 (2) (a) Expenses described in Subsections (1)(c) and (1)(k) are a charge to the county
316 only to the extent that they exceed any private insurance in effect that covers ~~[those expenses]~~
317 the expenses described in Subsections (1)(c) and (1)(k).

318 (b) The county may collect costs of medical care, treatment, hospitalization, and related
319 transportation provided to the person described in Subsection (1)(k) who has the resources or
320 the ability to pay, subject to the following priorities for payment:

321 (i) first priority shall be given to restitution; and

322 (ii) second priority shall be given to family support obligations.

323 (c) A county may seek reimbursement from a person described in Subsection (1)(k) for
324 expenses incurred by the county in behalf of the inmate for medical care, treatment,
325 hospitalization, or related transportation by:

326 (i) deducting the cost from the inmate's cash account on deposit with the detention
327 facility during the inmate's incarceration or during a subsequent incarceration if the subsequent
328 incarceration occurs within the same county and the incarceration is within 10 years of the date
329 of the expense in behalf of the inmate;

330 (ii) placing a lien for the amount of the expense against the inmate's personal property
331 held by the jail; and

332 (iii) adding the amount of expenses incurred to any other amount owed by the inmate
333 to the jail upon the inmate's release~~[, as allowed under Subsection 76-3-201(6)(a).]~~ in
334 accordance with Subsection 76-3-201(4)(d).

335 (d) An inmate who receives medical care, treatment, hospitalization, or related
336 transportation shall cooperate with the jail facility seeking payment or reimbursement under
337 this section for the inmate's expenses.

338 (e) If there is no contract between a county jail and a health care facility or provider
339 that establishes a fee schedule for medical services rendered, expenses under Subsection (1)(k)
340 shall be commensurate with:

341 (i) for a health care facility, the current noncapitated state Medicaid rates; and
342 (ii) for a health care provider, 65% of the amount that would be paid to the health care
343 provider:

344 (A) under the Public Employees' Benefit and Insurance Program, created in Section
345 [49-20-103](#); and

346 (B) if the person receiving the medical service were a covered employee under the
347 Public Employees' Benefit and Insurance Program.

348 (f) Subsection (1)(k) does not apply to expenses of a person held at the jail at the
349 request of an agency of the United States.

350 (g) A county that receives information from the Public Employees' Benefit and
351 Insurance Program to enable the county to calculate the amount to be paid to a health care
352 provider under Subsection (2)(e)(ii) shall keep that information confidential.

353 Section 2. Section **32B-4-305** is amended to read:

354 **32B-4-305. Additional criminal penalties.**

355 (1) (a) [~~For purposes of this section~~] As used in this section, "business entity" means a
356 corporation, partnership, association, limited liability company, or similar entity.

357 (b) In addition to the penalties provided in Title 76, Chapter 3, Punishments, this
358 section applies.

359 (2) Upon a defendant's conviction of an offense defined in this title, the court may
360 order the defendant to [~~make restitution or pay costs in accordance with Title 77, Chapter 32a,~~
361 ~~Criminal Accounts Receivable and Defense Costs.~~] pay restitution or costs in accordance with
362 Subsection [76-3-201](#)(4).

363 (3) (a) Upon a business entity's conviction of an offense defined in this title, and a
364 failure of the business entity to pay a fine imposed upon it:

365 (i) if it is a domestic business entity, the powers, rights, and privileges of the business

366 entity may be suspended or revoked; and

367 (ii) if it is a foreign business entity, it forfeits its right to do intrastate business in this
368 state.

369 (b) The department shall transmit the name of a business entity described in Subsection
370 (3)(a) to the Division of Corporations and Commercial Code. Upon receipt of the information,
371 the Division of Corporations and Commercial Code shall immediately record the action in a
372 manner that makes the information available to the public.

373 (c) A suspension, revocation, or forfeiture under this Subsection (3) is effective from
374 the day on which the Division of Corporations and Commercial Code records the information.

375 (d) A certificate of the Division of Corporations and Commercial Code is prima facie
376 evidence of a suspension, revocation, or forfeiture.

377 (e) This section may not be construed as affecting, limiting, or restricting a proceeding
378 that otherwise may be taken for the imposition of any other punishment or the modes of
379 enforcement or recovery of fines or penalties.

380 (4) (a) Upon the conviction of a business entity required to have a business license to
381 operate its business activities, or upon the conviction of any of its staff of any offense defined
382 in this title, with the knowledge, consent, or acquiescence of the business entity, the department
383 shall forward a copy of the judgment of conviction to the appropriate governmental entity
384 responsible for issuing and revoking the business license.

385 (b) A governmental entity that receives a copy of a judgment under this Subsection (4)
386 may institute appropriate proceedings to revoke the business license.

387 (c) Upon revocation under this Subsection (4), a governmental entity may not issue a
388 business license to the business entity for at least one year from the date of revocation.

389 (d) Upon the conviction for a second or other offense, the governmental entity may not
390 issue a business license for at least two years from the date of revocation.

391 (5) (a) Upon conviction of one of the following of an offense defined in this title, the
392 department shall forward a certified copy of the judgment of conviction to the Division of
393 Occupational and Professional Licensing:

394 (i) a health care practitioner; or
395 (ii) an individual licensed as a veterinarian under Title 58, Chapter 28, Veterinary
396 Practice Act.

397 (b) The Division of Occupational and Professional Licensing may bring a proceeding
398 in accordance with Title 58, Occupations and Professions, to revoke the license issued under
399 Title 58, Occupations and Professions, of an individual described in Subsection (5)(a).

400 (c) Upon revocation of a license under Subsection (5)(b):

401 (i) the Division of Occupational and Professional Licensing may not issue a license to
402 the individual under Title 58, Occupations and Professions, for at least one year from the date
403 of revocation; and

404 (ii) if the individual is convicted of a second or subsequent offense, the Division of
405 Occupational and Professional Licensing may not issue a license to the individual under Title
406 58, Occupations and Professions, for at least two years from the date of revocation.

407 Section 3. Section **58-50-2** is amended to read:

408 **58-50-2. Definitions.**

409 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

410 (1) "Board" means the Private Probation Provider Licensing Board created in Section
411 [58-50-3](#).

412 (2) "Court" means the particular court [~~which~~] that orders probation in a case.

413 (3) "Private probation" means the preparation of presentence investigation reports and
414 the performance of supervision services by a private probation provider and funded by a
415 court-ordered fee, to be paid by the defendant, [~~pursuant to Section [77-18-1](#)~~] in accordance
416 with Subsection [77-18-105](#)(6)(a)(vii).

417 (4) (a) "Private probation provider" means any private individual preparing presentence
418 investigation reports or providing probation supervision [~~pursuant to~~] in accordance with a
419 court order under Section [~~77-18-1~~] [77-18-105](#) and who is licensed under this chapter, and
420 whose services are limited to minor offenses and misdemeanor violations.

421 (b) A private probation provider does not have the authority of a peace officer.

422 (5) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further
423 defined by rule includes:

424 (a) failure to disclose any financial or personal interest or prior relationship with parties
425 that affects the private probation provider's impartiality or otherwise constitutes a conflict of
426 interest;

427 (b) providing contract probation services when any financial or personal interest or
428 prior relationship with parties affects the private probation provider's impartiality or otherwise
429 constitutes an actual conflict of interest;

430 (c) failure to clearly define to the offender the services provided by the private
431 probation provider, the rules of conduct, the criteria used, and the fees charged;

432 (d) failure to provide adequate supervision, or supervision as ordered by the court, as
433 determined by the division in collaboration with the board; and

434 (e) failure to comply with the standards specified in Section 58-50-9.

435 Section 4. Section 58-50-9 is amended to read:

436 **58-50-9. Standards of conduct for private probation providers.**

437 The private probation provider:

438 (1) shall maintain impartiality toward all parties;

439 (2) shall ensure that all parties understand the nature of the process, the procedure, the
440 particular role of the private probation provider, and the parties' relationship to the private
441 probation provider;

442 (3) shall maintain confidentiality or, in cases where confidentiality is not protected, the
443 private probation provider shall so advise the parties;

444 (4) shall disclose any circumstance that may create or give the appearance of a conflict
445 of interest and any circumstance that may reasonably raise a question as to the private
446 probation provider's impartiality; if the contract probation supervisor perceives or believes a
447 conflict of interest to exist, the contract probation supervisor shall refrain from entering into
448 those probation services;

449 (5) shall adhere to the standards regarding private probation services adopted by the

450 licensing board;

451 (6) shall comply with orders of court and perform services as directed by judges in
452 individual cases; and

453 (7) shall perform duties established under Section [~~77-18-1~~] 77-18-105, as ordered by
454 the court.

455 Section 5. Section **58-50-10** is amended to read:

456 **58-50-10. Exceptions from licensure.**

457 In addition to the exemptions from licensure in Section 58-1-307, the following persons
458 may engage in probation supervision services subject to the stated circumstances and
459 limitations without being licensed under this chapter:

460 (1) employees of the Department of Corrections while performing probation services as
461 part of their normal duties and responsibilities;

462 (2) members of the armed forces and employees, agents, or representatives of the
463 federal government while acting in their official capacity; and

464 (3) agencies of local government[~~, pursuant to Section 77-18-1~~] in accordance with
465 Section 77-18-105.

466 Section 6. Section **59-10-529** is amended to read:

467 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

468 (1) If there has been an overpayment of any tax imposed by this chapter, the amount of
469 overpayment is credited as follows:

470 (a) against an income tax due from a taxpayer;

471 (b) against:

472 (i) the amount of a judgment against a taxpayer, including a final judgment or order
473 requiring payment of a fine or of restitution to a victim under Title 77, Chapter [~~38a~~] 38b,
474 Crime Victims Restitution Act, obtained through due process of law by an entity of state or
475 local government; or

476 (ii) subject to Subsection (4)(a)(i), a child support obligation that is due or past due, as
477 determined by the Office of Recovery Services in the Department of Human Services and after

478 notice and an opportunity for an adjudicative proceeding, as provided in Subsection (4)(a)(iii);
479 or

480 (c) subject to Subsections (3), (5), (6), and (7), as bail to ensure the appearance of a
481 taxpayer before the appropriate authority to resolve an outstanding warrant against the taxpayer
482 for which bail is due, if a court of competent jurisdiction has not approved an alternative form
483 of payment.

484 (2) If a balance remains after an overpayment is credited in accordance with Subsection
485 (1), the balance shall be refunded to the taxpayer.

486 (3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture:

487 (a) that is due and related to a warrant that is outstanding on or after February 16, 1984;
488 and

489 (b) in accordance with Subsections (5) and (6).

490 (4) (a) The amount of an overpayment may be credited against an obligation described
491 in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the
492 taxpayer's last-known address or the address on file under Section [62A-11-304.4](#), stating:

493 (i) the amount of child support that is due or past due as of the date of the notice or
494 other specified date;

495 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child
496 support specified in the notice; and

497 (iii) that the taxpayer may contest the amount of past-due child support specified in the
498 notice by filing a written request for an adjudicative proceeding with the office within 15 days
499 of the notice being sent.

500 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
501 Office of Recovery Services shall establish rules to implement this Subsection (4), including
502 procedures, in accordance with the other provisions of this section, to ensure:

503 (i) prompt reimbursement to a taxpayer of any amount of an overpayment that was
504 credited against a child support obligation in error; and

505 (ii) prompt distribution of properly credited funds to the obligee parent.

506 (5) The amount of an overpayment may be credited against bail described in
507 Subsection (1)(c) if:

508 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail,
509 appear, or otherwise satisfy the terms of a citation, summons, or court order; and

510 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been
511 sent to the taxpayer's current address on file with the commission.

512 (6) (a) (i) The commission shall deliver an overpayment applied as bail to the court that
513 issued the warrant of arrest.

514 (ii) The clerk of the court is authorized to endorse the check or commission warrant of
515 payment on behalf of the payees and deposit the money in the court treasury.

516 (b) (i) The court receiving an overpayment applied as bail shall order withdrawal of the
517 warrant for arrest of the taxpayer if:

518 (A) the case is a case for which a personal appearance of the taxpayer is not required;
519 and

520 (B) the dollar amount of the overpayment represents the full dollar amount of bail.

521 (ii) In a case except for a case described in Subsection (6)(b)(i):

522 (A) the court receiving the overpayment applied as bail is not required to order the
523 withdrawal of the warrant of arrest of the taxpayer during the 40-day period; and

524 (B) the taxpayer may be arrested on the warrant.

525 (c) (i) If a taxpayer fails to respond to the notice required by Subsection (5)(b), or to
526 resolve the warrant within 40 days after the notice is sent under Subsection (5)(b), the
527 overpayment applied as bail is forfeited.

528 (ii) A court may issue another warrant or allow the original warrant to remain in force
529 if:

530 (A) the taxpayer has not complied with an order of the court;

531 (B) the taxpayer has failed to appear and respond to a criminal charge for which a
532 personal appearance is required; or

533 (C) the taxpayer has paid partial but not full bail in a case for which a personal

534 appearance is not required.

535 (d) If the alleged violations named in a warrant are later resolved in favor of the
536 taxpayer, the bail amount shall be remitted to the taxpayer.

537 (7) The fine and bail forfeiture provisions of this section apply to all warrants, fines,
538 fees, and surcharges issued in cases charging a taxpayer with a felony, a misdemeanor, or an
539 infraction described in this section, which are outstanding on or after February 16, 1984.

540 (8) If the amount allowed as a credit for tax withheld from a taxpayer exceeds the tax
541 to which the credit relates, the excess is considered an overpayment.

542 (9) (a) Subject to Subsection (9)(b), a taxpayer shall claim a credit or refund of an
543 overpayment that is attributable to a net operating loss carry back or carry forward within three
544 years after the day on which the return for the taxable year of the net operating loss is due.

545 (b) The three-year period described in Subsection (9)(a) shall be extended by any
546 extension of time provided in statute for filing the return described in Subsection (9)(a).

547 (10) If there is no tax liability for a period in which an amount is paid under this
548 chapter, the amount is an overpayment.

549 (11) If a tax under this chapter is assessed or collected after the expiration of the
550 applicable period of limitation, that amount is an overpayment.

551 (12) (a) A taxpayer may file a claim for a credit or refund of an overpayment within
552 two years after the day on which a notice of change, notice of correction, or amended return is
553 required to be filed with the commission if the taxpayer is required to:

554 (i) report a change or correction in income reported on the taxpayer's federal income
555 tax return;

556 (ii) report a change or correction that is treated in the same manner as if the change or
557 correction were an overpayment for federal income tax purposes; or

558 (iii) file an amended return with the commission.

559 (b) If a report or amended return is not filed within 90 days after the day on which the
560 report or amended return is due, interest on any resulting refund or credit ceases to accrue after
561 the 90-day period.

562 (c) The amount of the credit or refund may not exceed the amount of the reduction in
563 tax attributable to the federal change, correction, or items amended on the taxpayer's amended
564 federal income tax return.

565 (d) Except as provided in Subsection (12)(a), this Subsection (12) does not affect the
566 amount or the time within which a claim for credit or refund may be filed.

567 (13) A credit or refund may not be allowed or made if an overpayment is less than \$1.

568 (14) In the case of an overpayment of tax by an employer under Part 4, Withholding of
569 Tax, an employer shall receive a refund or credit only to the extent that the amount of the
570 overpayment is not deducted and withheld from wages under this chapter.

571 (15) (a) If a taxpayer that is allowed a refund under this chapter dies, the commission
572 may make payment to the personal representative of the taxpayer's estate.

573 (b) If there is no personal representative of the taxpayer's estate, the commission may
574 make payment to those persons that establish entitlement to inherit the property of the decedent
575 in the proportions established in Title 75, Utah Uniform Probate Code.

576 (16) If an overpayment relates to a change in net income described in Subsection
577 [59-10-536\(2\)\(a\)](#), a credit may be allowed or a refund paid any time before the expiration of the
578 period within which a deficiency may be assessed.

579 (17) An overpayment of a tax imposed by this chapter shall accrue interest at the rate
580 and in the manner prescribed in Section [59-1-402](#).

581 (18) A pass-through entity may claim a refund of qualifying excess withholding in
582 accordance with Section [59-10-1403.3](#) in lieu of a pass-through entity taxpayer claiming a tax
583 credit under Section [59-7-614.4](#) or Section [59-10-1103](#).

584 Section 7. Section **62A-15-625** is amended to read:

585 **62A-15-625. Voluntary admission of adults.**

586 (1) A local mental health authority, a designee of a local mental health authority, or
587 another mental health facility may admit for observation, diagnosis, care, and treatment an
588 adult who applies for voluntary admission and who has a mental illness or exhibits the
589 symptoms of a mental illness.

590 (2) No adult may be committed to a local mental health authority against that adult's
591 will except as provided in this chapter.

592 (3) An adult may be voluntarily admitted to a local mental health authority for
593 treatment at the Utah State Hospital as a condition of probation or stay of sentence only after
594 the requirements of [~~Subsection 77-18-1(13)~~] Section 77-18-106 have been met.

595 Section 8. Section **63A-3-501** is amended to read:

596 **63A-3-501. Definitions.**

597 As used in this part:

598 (1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency
599 from an entity for which payment has not been received by the state agency that is servicing the
600 debt.

601 (b) "Accounts receivable" includes:

602 (i) unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges,
603 costs, contracts, interest, penalties, [~~restitution to victims,~~] third-party claims, sale of goods,
604 sale of services, claims, and damages[-];

605 (ii) a civil accounts receivable; and

606 (iii) a civil judgment of restitution.

607 (c) "Accounts receivable" does not include a criminal accounts receivable.

608 (2) "Administrative offset" means:

609 (a) a reduction of an individual's tax refund or other payments due to the individual to
610 reduce or eliminate accounts receivable that the individual owes to a state agency; and

611 (b) a reduction of an entity's tax refund or other payments due to the entity to reduce or
612 eliminate accounts receivable that the entity owes to a state agency.

613 (3) "Civil accounts receivable" means the same as that term is defined in Section
614 77-32b-102.

615 (4) "Civil judgment of restitution" means the same as that term is defined in Section
616 77-32b-102.

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

618 [77-32b-102](#).

619 ~~[(3)]~~ (6) "Entity" means an individual, a corporation, partnership, or other organization
620 that pays taxes to, or does business, with the state.

621 ~~[(4)]~~ (7) "Office" means the Office of State Debt Collection ~~[established by this part]~~
622 created in Section [63A-3-502](#).

623 ~~[(5)]~~ (8) "Past due" means any accounts receivable that the state has not received by the
624 payment due date.

625 ~~[(6)]~~ (9) "Political subdivision" means the same as that term is defined in Section
626 [63G-7-102](#).

627 ~~[(7) "Restitution to victims" means restitution ordered by a court to be paid to a victim~~
628 ~~of an offense in a criminal or juvenile proceeding.]~~

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

630 ~~[(8)]~~ (11) (a) "State agency" includes:

- 631 (i) an executive branch agency;
632 (ii) the legislative branch of state government; and
633 (iii) the judicial branches of state government, including justice courts.

634 (b) "State agency" does not include:

- 635 (i) any institution of higher education;
636 (ii) except in Subsection [63A-3-502\(7\)\(g\)](#), the State Tax Commission; or
637 (iii) the administrator of the Uninsured Employers' Fund appointed by the Labor
638 Commissioner under Section [34A-2-704](#), solely for the purposes of collecting money required
639 to be deposited into the Uninsured Employers' Fund under:

- 640 (A) Section [34A-1-405](#);
641 (B) Title 34A, Chapter 2, Workers' Compensation Act; or
642 (C) Title 34A, Chapter 3, Utah Occupational Disease Act.

643 ~~[(9)]~~ (12) "Writing-off" means the removal of an accounts receivable from an agency's
644 accounts receivable records but does not necessarily eliminate further collection efforts.

645 Section 9. Section [63A-3-502](#) is amended to read:

- 646 **63A-3-502. Office of State Debt Collection created -- Duties.**
647 (1) The state and each state agency shall comply with:
648 (a) the requirements of this chapter; and
649 (b) any rules established by the Office of State Debt Collection.
650 (2) There is created the Office of State Debt Collection in the Division of Finance.
651 (3) The office shall:
652 (a) have overall responsibility for collecting and managing state receivables;
653 (b) assist the Division of Finance to develop consistent policies governing the
654 collection and management of state receivables;
655 (c) oversee and monitor state receivables to ensure that state agencies are:
656 (i) implementing all appropriate collection methods;
657 (ii) following established receivables guidelines; and
658 (iii) accounting for and reporting receivables in the appropriate manner;
659 (d) assist the Division of Finance to develop policies, procedures, and guidelines for
660 accounting, reporting, and collecting money owed to the state;
661 (e) provide information, training, and technical assistance to each state agency on
662 various collection-related topics;
663 (f) write an inclusive receivables management and collection manual for use by each
664 state agency;
665 (g) prepare quarterly and annual reports of the state's receivables;
666 (h) create or coordinate a state accounts receivable database;
667 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
668 effective accounts receivable program;
669 (j) identify any state agency that is not making satisfactory progress toward
670 implementing collection techniques and improving accounts receivable collections;
671 (k) coordinate information, systems, and procedures between each state agency to
672 maximize the collection of past-due accounts receivable;
673 (l) establish an automated cash receipt process between each state agency;

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

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

678 (o) be a real party in interest for:

679 (i) an account receivable referred to the office by any state agency ~~[or for any~~
680 ~~restitution to victims referred to the office]~~; and

681 (ii) a civil judgment of restitution entered on a civil judgment docket by a court; [and]

682 (p) allocate money collected for ~~[judgments registered under Section 77-18-6]~~ a
683 judgment entered on the civil judgment docket under Section 77-18-114 in accordance with
684 Sections 51-9-402, 63A-3-506, and 78A-5-110~~[-];~~ and

685 (q) if a criminal accounts receivable is transferred to the office under Subsection
686 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts
687 receivable.

688 (4) The office may:

689 (a) recommend to the Legislature new laws to enhance collection of past-due accounts
690 by state agencies;

691 (b) collect accounts receivables for higher education entities, if the higher education
692 entity agrees;

693 (c) prepare a request for proposal for consulting services to:

694 (i) analyze the state's receivable management and collection efforts; and

695 (ii) identify improvements needed to further enhance the state's effectiveness in
696 collecting its receivables;

697 (d) contract with private or state agencies to collect past-due accounts;

698 (e) perform other appropriate and cost-effective coordinating work directly related to
699 collection of state receivables;

700 (f) obtain access to records and databases of any state agency that are necessary to the
701 duties of the office by following the procedures and requirements of Section 63G-2-206,

702 including the financial [~~disclosure form described in Section 77-38a-204~~] declaration form
703 described in Section 77-38b-204;

704 (g) collect interest and fees related to the collection of receivables under this chapter,
705 and establish, by following the procedures and requirements of Section 63J-1-504:

706 (i) a fee to cover the administrative costs of collection[;] on accounts administered by
707 the office;

708 (ii) a late penalty fee that may not be more than 10% of the account receivable on
709 accounts administered by the office;

710 (iii) an interest charge that is:

711 (A) the postjudgment interest rate established by Section 15-1-4 in judgments
712 established by the courts; or

713 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
714 receivable for which no court judgment has been entered; and

715 (iv) fees to collect accounts receivable for higher education;

716 (h) collect reasonable attorney fees and reasonable costs of collection that are related to
717 the collection of receivables under this chapter;

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

720 [~~(j) file a satisfaction of judgment in the court by following the procedures and
721 requirements of the Utah Rules of Civil Procedure;~~]

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

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

727 (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f)
728 with private sector vendors under contract with the state to assist state agencies in collecting
729 debts owed to the state agencies without changing the classification of any private, controlled,

730 or protected record into a public record;

731 (m) enter into written agreements with other governmental agencies to obtain and share
732 information for the purpose of collecting state accounts receivable [~~and restitution for victims~~];
733 and

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

738 (5) The office shall ensure that:

739 (a) a record obtained by the office or a private sector vendor [~~as referred to in~~] under
740 Subsection (4)(l):

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

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

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

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

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

749 (6) (a) The office shall collect [~~accounts receivable~~] a civil accounts receivable or a
750 civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense
751 that have been transferred to the office under [~~Section 77-32a-102~~] Subsection 77-18-114(1) or
752 (2).

753 (b) The office may not assess:

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

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

- 758 (7) The office shall require a state agency to:
- 759 (a) transfer collection responsibilities to the office or [~~its~~] the office's designee
- 760 according to time limits established by the office;
- 761 (b) make annual progress towards implementing collection techniques and improved
- 762 accounts receivable collections;
- 763 (c) use the state's accounts receivable system or develop systems that are adequate to
- 764 properly account for and report [~~their~~] the state's receivables;
- 765 (d) develop and implement internal policies and procedures that comply with the
- 766 collections policies and guidelines established by the office;
- 767 (e) provide internal accounts receivable training to staff involved in the management
- 768 and collection of receivables as a supplement to statewide training;
- 769 (f) bill for and make initial collection efforts of its receivables up to the time the
- 770 accounts must be transferred; and
- 771 (g) submit quarterly receivable reports to the office that identify the age, collection
- 772 status, and funding source of each receivable.
- 773 (8) All interest, fees, and other amounts authorized to be [~~charged~~] collected by the
- 774 office under Subsection (4)(g):
- 775 (a) are penalties that may be charged by the office; [~~and~~]
- 776 (b) do not require an order from a court for the office to assess or collect;
- 777 [~~(b)~~] (c) are not compensation for actual pecuniary loss[-];
- 778 (d) for a civil accounts receivable:
- 779 (i) begin to accrue on the day on which the civil accounts receivable is entered on the
- 780 civil judgment docket under Subsection 77-18-114(1) or (2); and
- 781 (ii) may be collected as part of the civil accounts receivable;
- 782 (e) for a civil judgment of restitution:
- 783 (i) begin to accrue on the day on which the civil judgment of restitution is entered on
- 784 the civil judgment docket under Subsection 77-18-114(1); and
- 785 (ii) may be collected as part of the civil judgment of restitution;

- 786 (f) for all other accounts receivable:
- 787 (i) begin to accrue on the day on which the accounts receivable is transferred to the
- 788 office, even if there is no court order on the day on which the accounts receivable is
- 789 transferred; and
- 790 (ii) may be collected as part of the accounts receivable; and
- 791 (g) may be waived by:
- 792 (i) the office; or
- 793 (ii) if the interest, fee, or other amount is charged in error, the court.

794 Section 10. Section **63A-3-504** is amended to read:

795 **63A-3-504. Rulemaking authority -- Collection techniques.**

796 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

797 office shall make rules:

- 798 (1) providing details, as necessary, for the distribution of debts collected in accordance
- 799 with the priorities under Subsection **63A-3-505(3)**; [~~and~~]
- 800 (2) to govern collection techniques, which may include the use of:
- 801 (a) credit reporting bureaus;
- 802 (b) collection agencies;
- 803 (c) garnishments;
- 804 (d) liens;
- 805 (e) judgments; and
- 806 (f) administrative offsets[-]; and
- 807 (3) establishing that any portion of a payment for a civil judgment of restitution be
- 808 credited to principal first and, if the principal amount owed for the civil judgment of restitution
- 809 has been satisfied, the remainder of the payment be credited to interest that has accrued on the
- 810 principal.

811 Section 11. Section **63A-3-505** is amended to read:

812 **63A-3-505. State Debt Collection Fund.**

- 813 (1) There is created an expendable special revenue fund entitled the "State Debt

814 Collection Fund."

815 (2) The fund consists of:

816 (a) all amounts appropriated to the fund under this chapter;

817 (b) fees and interest established by the office under Subsection 63A-3-502(4)(g); and

818 (c) except as otherwise provided by law, all postjudgment interest collected by the
819 office or the state, except postjudgment interest on ~~[restitution]~~ a civil judgment of restitution.

820 (3) Money in this fund shall be used to pay for:

821 (a) the costs of the office in the performance of ~~[its]~~ the office's duties under this
822 chapter;

823 (b) ~~[restitution to victims to whom the debt is owed]~~ a civil judgment of restitution for
824 which debt is owed;

825 (c) interest accrued that is associated with the debt;

826 (d) principal on the debt to the state agencies or other entities that placed the receivable
827 for collection; and

828 (e) other legal obligations including those ordered by a court.

829 (4) (a) The fund may collect interest.

830 (b) All interest earned from the fund shall be deposited in the General Fund.

831 (5) The office shall ensure that money remaining in the fund at the end of the fiscal
832 year that is not committed under the priorities established under Subsection (3) is deposited
833 into the General Fund.

834 Section 12. Section 63A-3-507 is amended to read:

835 **63A-3-507. Administrative garnishment order.**

836 (1) ~~[H]~~ Subject to Subsection (2), if a judgment is entered against a debtor, the office
837 may~~[, subject to Subsection (2),]~~ issue an administrative garnishment order against the debtor's
838 personal property, including wages, in the possession of a party other than the debtor in the
839 same manner and with the same effect as if the order was a writ of garnishment issued by a
840 court with jurisdiction.

841 (2) The office may issue the administrative garnishment order if ~~[the order is]~~:

- 842 (a) the order is signed by the director or the director's designee; and
- 843 (b) the underlying debt is for:
 - 844 (i) nonpayment of ~~[a criminal judgment accounts receivable as defined in Section~~
 - 845 ~~77-32a-101]~~ a civil accounts receivable or a civil judgment of restitution; or
 - 846 (ii) nonpayment of a judgment, or abstract of judgment or award filed with a court,
 - 847 based on an administrative order for payment issued by an agency of the state.
- 848 (3) An administrative garnishment order issued in accordance with this section is
- 849 subject to the procedures and due process protections provided by Rule 64D, Utah Rules of
- 850 Civil Procedure, except as provided by Section [70C-7-103](#).
- 851 (4) An administrative garnishment order issued by the office shall:
 - 852 (a) contain a statement that includes:
 - 853 (i) if known:
 - 854 (A) the nature, location, account number, and estimated value of the property; and
 - 855 (B) the name, address, and phone number of the person holding the property;
 - 856 (ii) whether any of the property consists of earnings;
 - 857 (iii) the amount of the judgment and the amount due on the judgment;
 - 858 (iv) the name, address, and phone number of any person known to the plaintiff to claim
 - 859 an interest in the property; and
 - 860 (v) that the plaintiff has attached or will serve the garnishee fee established in Section
 - 861 [78A-2-216](#);
 - 862 (b) identify the defendant, including:
 - 863 (i) the defendant's name and address; and
 - 864 (ii) if known:
 - 865 (A) the last four digits of the defendant's Social Security number;
 - 866 (B) the last four digits of the defendant's driver license; and
 - 867 (C) the state in which the driver license was issued;
 - 868 (c) include one or more interrogatories inquiring:
 - 869 (i) whether the garnishee is indebted to the defendant and, if so, the nature of the

870 indebtedness;

871 (ii) whether the garnishee possesses or controls any property of the defendant, and, if
872 so, the nature, location, and estimated value of the property;

873 (iii)(A) whether the garnishee knows of any property of the defendant in the possession
874 or under the control of another; and

875 (B) the nature, location, and estimated value of the defendant's property in possession
876 or under the control of another, and the name, address, and phone number of the person with
877 possession or control;

878 (iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim
879 against the plaintiff or the defendant, a designation as to whom the claim relates, and the
880 amount deducted;

881 (v) the date and manner of the garnishee's service of papers upon the defendant and any
882 third party;

883 (vi) the dates on which previously served writs of continuing garnishment were served,
884 if any; and

885 (vii) any other relevant information the office may request, including the defendant's
886 position, rate, and method of compensation, pay period, or computation of the amount of the
887 defendant's disposable earnings;

888 (d) notify the defendant of the defendant's right to reply to answers and request a
889 hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

890 (e) state where the garnishee may deliver property.

891 (5)(a) A garnishee who acts in accordance with this section and the administrative
892 garnishment issued by the office is released from liability unless an answer to an interrogatory
893 is successfully controverted.

894 (b) Except as provided in Subsection (5)(c), if the garnishee fails to comply with an
895 administrative garnishment issued by the office without a court or final administrative order
896 directing otherwise, the garnishee is liable to the office for an amount ordered by the court,
897 including:

- 898 (i) the value of the property or the value of the judgment, whichever is less;
- 899 (ii) reasonable costs; and
- 900 (iii) attorney fees incurred by the parties as a result of the garnishee's failure.

901 (c) If the garnishee shows that the steps taken to secure the property were reasonable,
902 the court may excuse the garnishee's liability in whole or in part.

903 (6) A creditor who files a motion for an order to show cause under this section shall
904 attach to the motion a statement that the creditor has in good faith conferred or attempted to
905 confer with the garnishee in an effort to settle the issue without court action.

906 (7) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a
907 negotiable instrument if the instrument is not in the possession or control of the garnishee at
908 the time of service of the administrative garnishment order.

909 (8)(a) A person indebted to the defendant may pay to the office the amount of the debt
910 or an amount to satisfy the administrative garnishment.

911 (b) The office's receipt of an amount described in Subsection (8)(a) discharges the
912 debtor for the amount paid.

913 (9) A garnishee may deduct from the property any liquidated claim against the
914 defendant.

915 (10)(a) If a debt to the garnishee is secured by property, the office:

916 (i) is not required to apply the property to the debt when the office issues the
917 administrative garnishment order; and

918 (ii) may obtain a court order authorizing the office to buy the debt and requiring the
919 garnishee to deliver the property.

920 (b) Notwithstanding Subsection (10)(a)(i):

921 (i) the administrative garnishment order remains in effect; and

922 (ii) the office may apply the property to the debt.

923 (c) The office or a third party may perform an obligation of the defendant and require
924 the garnishee to deliver the property upon completion of performance or, if performance is
925 refused, upon tender of performance if:

- 926 (i) the obligation is secured by property; and
- 927 (ii)(A) the obligation does not require the personal performance of the defendant; and
- 928 (B) a third party may perform the obligation.

929 (11)(a) The office may issue a continuing garnishment order against a nonexempt
930 periodic payment.

931 (b) This section is subject to the Utah Exemptions Act.

932 (c) A continuing garnishment order issued in accordance with this section applies to
933 payments to the defendant from the date of service upon the garnishee until the earlier of the
934 following:

- 935 (i) the last periodic payment;
- 936 (ii) the judgment upon which the administrative garnishment order is issued is stayed,
937 vacated, or satisfied in full; or
- 938 (iii) the office releases the order.

939 (d) No later than seven days after the last day of each payment period, the garnishee
940 shall with respect to that period:

- 941 (i) answer each interrogatory;
- 942 (ii) serve an answer to each interrogatory on the office, the defendant, and any other
943 person who has a recorded interest in the property; and
- 944 (iii) deliver the property to the office.

945 (e) If the office issues a continuing garnishment order during the term of a writ of
946 continuing garnishment issued by the district court, the order issued by the office:

947 (i) is tolled when a writ of garnishment or other income withholding is already in effect
948 and is withholding greater than or equal to the maximum portion of disposable earnings
949 described in Subsection (12);

950 (ii) is collected in the amount of the difference between the maximum portion of
951 disposable earnings described in Subsection (12) and the amount being garnished by an
952 existing writ of continuing garnishment if the maximum portion of disposable earnings exceed
953 the existing writ of garnishment or other income withholding; and

954 (iii) shall take priority upon the termination of the current term of existing writs.

955 (12) The maximum portion of disposable earnings of an individual subject to seizure in
956 accordance with this section is the lesser of:

957 (a) 25% of the defendant's disposable earnings for any other judgment; or

958 (b) the amount by which the defendant's disposable earnings for a pay period exceeds
959 the number of weeks in that pay period multiplied by 30 times the federal minimum wage as
960 provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

961 (13) The administrative garnishment instituted in accordance with this section shall
962 continue to operate and require that a person withhold the nonexempt portion of earnings at
963 each succeeding earning disbursement interval until the total amount due in the garnishment is
964 withheld or the garnishment is released in writing by the court or office.

965 (14) If the office issues an administrative garnishment order under this section to
966 collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the
967 administrative garnishment order shall be construed as a continuation of the criminal action for
968 which the civil accounts receivable or civil judgment of restitution arises if the amount owed is
969 from a fine, fee, or restitution for the criminal action.

970 Section 13. Section **63I-1-263** is amended to read:

971 **63I-1-263. Repeal dates, Titles 63A to 63N.**

972 (1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

973 (a) Subsection **63A-1-201**(1) is repealed;

974 (b) Subsection **63A-1-202**(2)(c), the language "using criteria established by the board"
975 is repealed;

976 (c) Section **63A-1-203** is repealed;

977 (d) Subsections **63A-1-204**(1) and (2), the language "After consultation with the board,
978 and" is repealed; and

979 (e) Subsection **63A-1-204**(1)(b), the language "using the standards provided in
980 Subsection **63A-1-203**(3)(c)" is repealed.

981 (2) Subsection **63A-5b-405**(5), relating to prioritizing and allocating capital

982 improvement funding, is repealed July 1, 2024.

983 (3) Section [63A-5b-1003](#), State Facility Energy Efficiency Fund, is repealed July 1,
984 2023.

985 (4) Sections [63A-9-301](#) and [63A-9-302](#), related to the Motor Vehicle Review
986 Committee, are repealed July 1, 2023.

987 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
988 1, 2028.

989 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
990 2025.

991 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
992 2024.

993 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
994 repealed July 1, 2021.

995 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
996 July 1, 2023.

997 (10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

998 (11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1,
999 2025.

1000 (12) Section [63G-6a-805](#), which creates the Purchasing from Persons with Disabilities
1001 Advisory Board, is repealed July 1, 2026.

1002 (13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
1003 2025.

1004 (14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
1005 2024.

1006 (15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

1007 (16) Subsection [63J-1-602.1\(14\)](#), Nurse Home Visiting Restricted Account is repealed
1008 July 1, 2026.

1009 (17) (a) Subsection [63J-1-602.1\(58\)](#), relating to the Utah Statewide Radio System

1010 Restricted Account, is repealed July 1, 2022.

1011 (b) When repealing Subsection [63J-1-602.1\(58\)](#), the Office of Legislative Research and
1012 General Counsel shall, in addition to the office's authority under Subsection [36-12-12\(3\)](#), make
1013 necessary changes to subsection numbering and cross references.

1014 (18) Subsection [63J-1-602.2\(4\)](#), referring to dedicated credits to the Utah Marriage
1015 Commission, is repealed July 1, 2023.

1016 (19) Subsection [63J-1-602.2\(5\)](#), referring to the Trip Reduction Program, is repealed
1017 July 1, 2022.

1018 (20) Subsection [63J-1-602.2\(25\)](#), related to the Utah Seismic Safety Commission, is
1019 repealed January 1, 2025.

1020 (21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is
1021 repealed July 1, 2027.

1022 (22) Subsection [63J-4-608\(3\)](#), which creates the Federal Land Application Advisory
1023 Committee, is repealed on July 1, 2021.

1024 (23) In relation to the Utah Substance Use and Mental Health Advisory Council, on
1025 January 1, 2023:

1026 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are
1027 repealed;

1028 (b) Section [63M-7-305](#), the language that states "council" is replaced with
1029 "commission";

1030 (c) Subsection [63M-7-305\(1\)](#) is repealed and replaced with:

1031 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

1032 (d) Subsection [63M-7-305\(2\)](#) is repealed and replaced with:

1033 "(2) The commission shall:

1034 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
1035 Drug-Related Offenses Reform Act; and

1036 (b) coordinate the implementation of Section [~~77-18-1.1~~] [77-18-104](#) and related
1037 provisions in Subsections [~~77-18-1(5)(b)(iii) and (iv)~~] [77-18-103\(2\)\(c\) and \(d\)](#)."

- 1038 (24) The Crime Victim Reparations and Assistance Board, created in Section
1039 [63M-7-504](#), is repealed July 1, 2027.
- 1040 (25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July
1041 1, 2022.
- 1042 (26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.
- 1043 (27) Subsection [63N-1-301](#)(4)(c), related to the Talent Ready Utah Board, is repealed
1044 January 1, 2023.
- 1045 (28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating
1046 Council, is repealed July 1, 2024.
- 1047 (29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.
- 1048 (30) Section [63N-2-512](#) is repealed July 1, 2021.
- 1049 (31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
1050 January 1, 2021.
- 1051 (b) Section [59-9-107](#) regarding tax credits against premium taxes is repealed for
1052 calendar years beginning on or after January 1, 2021.
- 1053 (c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in
1054 accordance with Section [59-9-107](#) if:
- 1055 (i) the person is entitled to a tax credit under Section [59-9-107](#) on or before December
1056 31, 2020; and
- 1057 (ii) the qualified equity investment that is the basis of the tax credit is certified under
1058 Section [63N-2-603](#) on or before December 31, 2023.
- 1059 (32) Subsections [63N-3-109](#)(2)(e) and [63N-3-109](#)(2)(f)(i) are repealed July 1, 2023.
- 1060 (33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed
1061 July 1, 2023.
- 1062 (34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1,
1063 2025.
- 1064 (35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program,
1065 is repealed January 1, 2023.

1066 (36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1,
1067 2023.

1068 Section 14. Section **63M-7-303** is amended to read:

1069 **63M-7-303. Duties of council.**

1070 (1) The Utah Substance Use and Mental Health Advisory Council shall:

1071 (a) provide leadership and generate unity for Utah's ongoing efforts to reduce and
1072 eliminate the impact of substance use and mental health disorders in Utah through a
1073 comprehensive and evidence-based prevention, treatment, and justice strategy;

1074 (b) recommend and coordinate the creation, dissemination, and implementation of
1075 statewide policies to address substance use and mental health disorders;

1076 (c) facilitate planning for a balanced continuum of substance use and mental health
1077 disorder prevention, treatment, and justice services;

1078 (d) promote collaboration and mutually beneficial public and private partnerships;

1079 (e) coordinate recommendations made by any committee created under Section
1080 [63M-7-302](#);

1081 (f) analyze and provide an objective assessment of all proposed legislation concerning
1082 substance use, mental health, and related issues;

1083 (g) coordinate the implementation of Section [~~77-18-1.1~~] [77-18-104](#) and related
1084 provisions in Subsections [~~77-18-1(5)(b)(iii) and (iv)~~] [77-18-103\(2\)\(c\) and \(d\)](#), as provided in
1085 Section [63M-7-305](#);

1086 (h) comply with Section [32B-2-306](#); and

1087 (i) oversee coordination for the funding, implementation, and evaluation of suicide
1088 prevention efforts described in Section [62A-15-1101](#).

1089 (2) The council shall meet quarterly or more frequently as determined necessary by the
1090 chair.

1091 (3) The council shall report [~~its~~] the council's recommendations annually to the
1092 commission, governor, the Legislature, and the Judicial Council.

1093 Section 15. Section **63M-7-305** is amended to read:

1094 **63M-7-305. Drug-Related Offenses Reform Act -- Coordination.**

1095 (1) As used in this section:

1096 (a) "Council" means the Utah Substance Use and Mental Health Advisory Council.

1097 (b) "Drug-Related Offenses Reform Act" and "act" mean the screening, assessment,

1098 substance use disorder treatment, and supervision provided to convicted persons under

1099 Subsection [~~77-18-1.1(2)~~] 77-18-104(2) to:

1100 (i) determine a person's specific substance use disorder treatment needs as early as

1101 possible in the judicial process;

1102 (ii) expand treatment resources for persons in the community;

1103 (iii) integrate a person's treatment with supervision by the Department of Corrections;

1104 and

1105 (iv) reduce the incidence of substance use disorders and related criminal conduct.

1106 (c) "Substance abuse authority" [~~has the same meaning as~~] means the same as that term1107 is defined in Section 17-43-201.1108 (2) The council shall provide ongoing oversight of the implementation, functions, and
1109 evaluation of the Drug-Related Offenses Reform Act.1110 (3) The council shall develop an implementation plan for the Drug-Related Offenses
1111 Reform Act. The plan shall:1112 (a) identify local substance abuse authority areas where the act will be implemented, in
1113 cooperation with the Division of Substance Abuse and Mental Health, the Department of
1114 Corrections, and the local substance abuse authorities;1115 (b) include guidelines for local substance abuse authorities and the Utah Department of
1116 Corrections on how funds appropriated under the act should be used, including eligibility
1117 requirements for convicted persons who participate in services funded by the act, that are
1118 consistent with the recommendations of the Commission on Criminal and Juvenile Justice for
1119 reducing recidivism; and1120 (c) require that treatment plans under the act are appropriate for persons involved in the
1121 criminal justice system.

1122 Section 16. Section **63M-7-502** is amended to read:

1123 **63M-7-502. Definitions.**

1124 As used in this part:

1125 (1) "Accomplice" means an individual who has engaged in criminal conduct as
1126 described in Section [76-2-202](#).

1127 (2) "Board" means the Crime Victim Reparations and Assistance Board created under
1128 Section [63M-7-504](#).

1129 (3) "Bodily injury" means physical pain, illness, or any impairment of physical
1130 condition.

1131 (4) "Claimant" means any of the following claiming reparations under this part:

1132 (a) a victim;

1133 (b) a dependent of a deceased victim; or

1134 (c) an individual or representative who files a reparations claim on behalf of a victim.

1135 (5) "Child" means an unemancipated individual who is under 18 years old.

1136 (6) "Collateral source" means any source of benefits or advantages for economic loss
1137 otherwise reparable under this part [~~which~~] that the victim or claimant has received, or [~~which~~]
1138 that is readily available to the victim from:

1139 (a) the offender;

1140 (b) the insurance of the offender or the victim;

1141 (c) the United States government or any of its agencies, a state or any of its political
1142 subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory
1143 state-funded programs;

1144 (d) social security, Medicare, and Medicaid;

1145 (e) state-required temporary nonoccupational income replacement insurance or
1146 disability income insurance;

1147 (f) workers' compensation;

1148 (g) wage continuation programs of any employer;

1149 (h) proceeds of a contract of insurance payable to the victim for the loss the victim

1150 sustained because of the criminally injurious conduct;

1151 (i) a contract providing prepaid hospital and other health care services or benefits for
1152 disability; or

1153 (j) veteran's benefits, including veteran's hospitalization benefits.

1154 (7) (a) "Criminally injurious conduct" other than acts of war declared or not declared
1155 means conduct that:

1156 (i) is or would be subject to prosecution in this state under Section 76-1-201;

1157 (ii) occurs or is attempted;

1158 (iii) causes, or poses a substantial threat of causing, bodily injury or death;

1159 (iv) is punishable by fine, imprisonment, or death if the individual engaging in the
1160 conduct possessed the capacity to commit the conduct; and

1161 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,
1162 aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is
1163 conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the
1164 Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

1165 (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C.
1166 Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism"
1167 does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.

1168 (c) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and
1169 other conduct leading to the psychological injury of an individual resulting from living in a
1170 setting that involves a bigamous relationship.

1171 (8) (a) "Dependent" means a natural person to whom the victim is wholly or partially
1172 legally responsible for care or support [~~and includes~~].

1173 (b) "Dependent" includes a child of the victim born after the victim's death.

1174 (9) "Dependent's economic loss" means loss after the victim's death of contributions of
1175 things of economic value to the victim's dependent, not including services the dependent would
1176 have received from the victim if the victim had not suffered the fatal injury, less expenses of
1177 the dependent avoided by reason of victim's death.

1178 (10) "Dependent's replacement services loss" means loss reasonably and necessarily
1179 incurred by the dependent after the victim's death in obtaining services in lieu of those the
1180 decedent would have performed for the victim's benefit if the victim had not suffered the fatal
1181 injury, less expenses of the dependent avoided by reason of the victim's death and not
1182 subtracted in calculating the dependent's economic loss.

1183 (11) "Director" means the director of the office.

1184 (12) "Disposition" means the sentencing or determination of penalty or punishment to
1185 be imposed upon an individual:

1186 (a) convicted of a crime;

1187 (b) found delinquent; or

1188 (c) against whom a finding of sufficient facts for conviction or finding of delinquency
1189 is made.

1190 (13) (a) "Economic loss" means economic detriment consisting only of allowable
1191 expense, work loss, replacement services loss, and if injury causes death, dependent's economic
1192 loss and dependent's replacement service loss.

1193 (b) "Economic loss" includes economic detriment even if caused by pain and suffering
1194 or physical impairment.

1195 (c) "Economic loss" does not include noneconomic detriment.

1196 (14) "Elderly victim" means an individual 60 years old or older who is a victim.

1197 (15) "Fraudulent claim" means a filed reparations based on material misrepresentation
1198 of fact and intended to deceive the reparations staff for the purpose of obtaining reparation
1199 funds for which the claimant is not eligible.

1200 (16) "Fund" means the Crime Victim Reparations Fund created in Section [63M-7-526](#).

1201 (17) "Law enforcement officer" means [~~a law enforcement officer as defined in Section~~
1202 ~~53-13-103~~] the same as that term is defined in Section [53-13-103](#).

1203 (18) (a) "Medical examination" means a physical examination necessary to document
1204 criminally injurious conduct [~~but~~].

1205 (b) "Medical examination" does not include mental health evaluations for the

1206 prosecution and investigation of a crime.

1207 (19) "Mental health counseling" means outpatient and inpatient counseling necessitated
1208 as a result of criminally injurious conduct, is subject to rules made by the board in accordance
1209 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1210 (20) "Misconduct" [~~as provided in Subsection 63M-7-512(1)(b)~~] means conduct by the
1211 victim [~~which~~] that was attributable to the injury or death of the victim as provided by rules
1212 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1213 Act.

1214 (21) "Noneconomic detriment" means pain, suffering, inconvenience, physical
1215 impairment, and other nonpecuniary damage, except as provided in this part.

1216 (22) "Pecuniary loss" does not include loss attributable to pain and suffering except as
1217 otherwise provided in this part.

1218 (23) "Offender" means an individual who has violated [~~the~~] Title 76, Utah Criminal
1219 Code, through criminally injurious conduct regardless of whether the individual is arrested,
1220 prosecuted, or convicted.

1221 (24) "Offense" means a violation of [~~the~~] Title 76, Utah Criminal Code.

1222 (25) "Office" means the director, the reparations and assistance officers, and any other
1223 staff employed for the purpose of carrying out the provisions of this part.

1224 (26) "Perpetrator" means the individual who actually participated in the criminally
1225 injurious conduct.

1226 (27) "Reparations award" means money or other benefits provided to a claimant or to
1227 another on behalf of a claimant after the day on which a reparations claim is approved by the
1228 office.

1229 (28) "Reparations claim" means a claimant's request or application made to the office
1230 for a reparations award.

1231 (29) (a) "Reparations officer" means an individual employed by the office to
1232 investigate claims of victims and award reparations under this part~~[, and includes]~~.

1233 (b) "Reparations officer" includes the director when the director is acting as a

1234 reparations officer.

1235 (30) "Replacement service loss" means expenses reasonably and necessarily incurred in
1236 obtaining ordinary and necessary services in lieu of those the injured individual would have
1237 performed, not for income but the benefit of the injured individual or the injured individual's
1238 dependents if the injured individual had not been injured.

1239 (31) (a) "Representative" means the victim, immediate family member, legal guardian,
1240 attorney, conservator, executor, or an heir of an individual ~~[but]~~.

1241 (b) "Representative" does not include a service provider or collateral source.

1242 (32) "Restitution" means ~~[money or services an appropriate authority orders an~~
1243 ~~offender to pay or render to a victim of the offender's conduct.]~~ the same as that term is defined
1244 in Section [77-38b-102](#).

1245 (33) "Secondary victim" means an individual who is traumatically affected by the
1246 criminally injurious conduct subject to rules made by the board in accordance with Title 63G,
1247 Chapter 3, Utah Administrative Rulemaking Act.

1248 (34) "Service provider" means an individual or agency who provides a service to
1249 ~~[crime victims]~~ a victim for a monetary fee, except attorneys as provided in Section
1250 [63M-7-524](#).

1251 (35) "Serious bodily injury" means the same as that term is defined in Section
1252 [76-1-601](#).

1253 (36) "Substantial bodily injury" means the same as that term is defined in Section
1254 [76-1-601](#).

1255 (37) (a) "Victim" means an individual who suffers bodily or psychological injury or
1256 death as a direct result of:

1257 (i) criminally injurious conduct; or [of]

1258 (ii) the production of pornography in violation of Section [76-5b-201](#) if the individual is
1259 a minor.

1260 (b) "Victim" does not include an individual who participated in or observed the judicial
1261 proceedings against an offender unless otherwise provided by statute or rule made in

1262 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1263 (c) "Victim" includes a resident of this state who is injured or killed by an act of
1264 terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

1265 (38) "Work loss" means loss of income from work the injured victim would have
1266 performed if the injured victim had not been injured and expenses reasonably incurred by the
1267 injured victim in obtaining services in lieu of those the injured victim would have performed
1268 for income, reduced by any income from substitute work the injured victim was capable of
1269 performing but unreasonably failed to undertake.

1270 Section 17. Section **63M-7-503** is amended to read:

1271 **63M-7-503. Restitution -- Reparations not to supplant restitution -- Assignment**
1272 **of claim for restitution judgment to Reparations Office.**

1273 (1) A reparations award may not supplant [~~restitution as established under Title 77,~~
1274 ~~Chapter 38a, Crime Victims Restitution Act, or as established by any other provisions.] an
1275 order for restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, or under any
1276 other provision of law.~~

1277 (2) The court may not reduce an order [~~of~~] for restitution based on a reparations award.

1278 (3) (a) (i) [~~If, due to reparation payments to a victim, the office is assigned under~~
1279 ~~Section 63M-7-519 a claim for the victim's judgment for restitution or a portion of the~~
1280 ~~restitution] If a victim receives a reparations award and the office is assigned the victim's claim
1281 for restitution, or a portion of the victim's claim for restitution, under Section 63M-7-519, the
1282 office may file with the sentencing court a notice of restitution listing the amounts or estimated
1283 future amounts of payments made or anticipated to be made to or on behalf of the victim.~~

1284 (ii) The office may provide a [~~restitution notice~~] notice of restitution to the victim or
1285 victim's representative before or at sentencing.

1286 (iii) The office's failure to provide notice under Subsection (3)(a)(i) or (ii) does not
1287 invalidate the imposition of the judgment or [~~order of~~] an order for restitution if the defendant
1288 is given the opportunity to object and be heard as provided in this part.

1289 (b) (i) Any objection by the defendant to the imposition or amount of restitution under

1290 Subsection (3)(a)(i) shall be:

1291 (A) made at the time of sentencing; or

1292 (B) made in writing within 20 days after the day on which the defendant receives the
 1293 notice described in Subsection (3)(a)~~[, to be]~~ and filed with the court and a copy mailed to the
 1294 office.

1295 (ii) Upon ~~[the filing of the]~~ an objection, the court shall allow the defendant a ~~[full]~~
 1296 hearing on the issue ~~[in accordance with Subsection 77-38a-302(4)].~~

1297 (iii) After a hearing under Subsection (3)(b)(ii), the court shall:

1298 (A) enter an order for restitution in accordance with Section 77-38b-205; and

1299 (B) identify the office as an assignee for the order for restitution.

1300 ~~[(iii) The]~~ (iv) Subject to the right of the defendant to object, the amount of restitution
 1301 sought by the office may be updated ~~[at any time, subject to the right of the defendant to~~
 1302 ~~object.]~~ and the office identified as an assignee of an order for restitution in accordance with
 1303 the time periods established under Subsection 77-38b-205(5).

1304 (4) If no objection is made or filed by the defendant under Subsection (3), ~~[then upon~~
 1305 ~~conviction and sentencing, the court shall enter a judgment for complete restitution under~~
 1306 ~~Subsections 76-3-201(4)(c) and (d) and identify the office as the assignee of the assigned~~
 1307 ~~portion of the judgment and order of restitution.]~~ the court shall upon conviction and
 1308 sentencing:

1309 (a) enter an order for restitution in accordance with Section 77-38b-205; and

1310 (b) identify the office as an assignee for the order for restitution.

1311 (5) (a) If the notice of restitution is filed after sentencing but during the term of
 1312 probation or parole, the court ~~[or Board of Pardons]~~ shall:

1313 (i) modify any ~~[existing civil judgment and order of]~~ order for restitution to include
 1314 expenses paid by the office on behalf of the victim in accordance with Subsection
 1315 77-38b-205(5); and

1316 (ii) identify the office as ~~[the]~~ an assignee of the ~~[assigned portion of the judgment and~~
 1317 ~~order of]~~ order for restitution. ~~[If no judgment or order of restitution has]~~

1318 (b) If an order for restitution has not been entered, the court shall ~~[enter a judgment for~~
1319 ~~complete restitution and court-ordered restitution under Sections 77-38a-302 and 77-38a-401.]~~;

1320 (i) enter an order for restitution in accordance with Section 77-38b-205; and

1321 (ii) identify the office as an assignee of the order for restitution.

1322 Section 18. Section **63M-7-513** is amended to read:

1323 **63M-7-513. Collateral sources.**

1324 (1) (a) An order ~~[of]~~ for restitution may not be considered readily available as a
1325 collateral source.

1326 (b) Receipt of a reparations award under this part is considered an assignment of the
1327 victim's rights to restitution from the offender.

1328 (2) (a) The victim may not discharge a claim against an individual or entity without the
1329 office's written permission ~~[and]~~.

1330 (b) The victim shall fully cooperate with the office in pursuing the office's right of
1331 reimbursement, including providing the office with any evidence in the victim's possession.

1332 (3) The office's right of reimbursement applies regardless of whether the victim is fully
1333 compensated for the victim's losses.

1334 (4) Notwithstanding Subsection **63M-7-512**(1)(a), a victim of a sexual offense who
1335 requests testing of the victim's self may be reimbursed for the costs of the HIV test only as
1336 provided in Subsection **76-5-503**(4).

1337 Section 19. Section **64-13-1** is amended to read:

1338 **64-13-1. Definitions.**

1339 As used in this chapter:

1340 (1) "Case action plan" means a document developed by the Department of Corrections
1341 that identifies the program priorities for the treatment of the offender, including the criminal
1342 risk factors as determined by a risk and needs assessment conducted by the department.

1343 (2) "Community correctional center" means a nonsecure correctional facility operated
1344 by the department.

1345 (3) "Correctional facility" means any facility operated to house offenders~~[, either]~~ in a

1346 secure or nonsecure setting:

1347 (a) by the department; or

1348 (b) under a contract with the department.

1349 (4) "Criminal risk factors" means ~~[a person's]~~ an individual's characteristics and

1350 behaviors that:

1351 (a) affect ~~[that person's]~~ the individual's risk of engaging in criminal behavior; and

1352 (b) are diminished when addressed by effective treatment, supervision, and other

1353 support resources, resulting in a reduced risk of criminal behavior.

1354 (5) "Department" means the Department of Corrections.

1355 (6) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in

1356 any correctional facility, or any situation that presents immediate danger to the safety, security,

1357 and control of the department.

1358 (7) "Executive director" means the executive director of the Department of

1359 Corrections.

1360 (8) "Inmate" means ~~[any person]~~ an individual who is:

1361 (a) committed to the custody of the department ~~[and who is]~~; and

1362 (b) housed at a correctional facility or at a county jail at the request of the department.

1363 (9) "Offender" means ~~[any person]~~ an individual who has been convicted of a crime for

1364 which ~~[he]~~ the individual may be committed to the custody of the department and is at least one

1365 of the following:

1366 (a) committed to the custody of the department;

1367 (b) on probation; or

1368 (c) on parole.

1369 (10) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

1370 ~~[(10)]~~ (11) "Risk and needs assessment" means an actuarial tool validated on criminal

1371 offenders that determines:

1372 (a) an individual's risk of reoffending; and

1373 (b) the criminal risk factors that, when addressed, reduce the individual's risk of

1374 reoffending.

1375 [(H)] (12) "Secure correctional facility" means any prison, penitentiary, or other
1376 institution operated by the department or under contract for the confinement of offenders,
1377 where force may be used to restrain ~~them if they attempt~~ an offender if the offender attempts
1378 to leave the institution without authorization.

1379 Section 20. Section **64-13-6** is amended to read:

1380 **64-13-6. Department duties.**

1381 (1) The department shall:

1382 (a) protect the public through institutional care and confinement, and supervision in the
1383 community of offenders where appropriate;

1384 (b) implement court-ordered punishment of offenders;

1385 (c) provide program opportunities for offenders;

1386 (d) provide treatment for sex offenders who are found to be treatable based upon
1387 criteria developed by the department;

1388 (e) provide the results of ongoing assessment of sex offenders and objective diagnostic
1389 testing to sentencing and release authorities;

1390 (f) manage programs that take into account the needs and interests of victims, where
1391 reasonable;

1392 (g) supervise probationers and parolees as directed by statute and implemented by the
1393 courts and the Board of Pardons and Parole;

1394 (h) subject to Subsection (2), investigate criminal conduct involving offenders
1395 incarcerated in a state correctional facility;

1396 (i) cooperate and exchange information with other state, local, and federal law
1397 enforcement agencies to achieve greater success in prevention and detection of crime and
1398 apprehension of criminals;

1399 (j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
1400 Offender Supervision;

1401 (k) establish a case action plan for each offender as follows:

1402 (i) if an offender is to be supervised in the community, the case action plan shall be
1403 established for the offender not more than 90 days after supervision by the department begins;
1404 and

1405 (ii) if the offender is committed to the custody of the department, the case action plan
1406 shall be established for the offender not more than 120 days after the commitment; and

1407 (l) ensure that any training or certification required of a public official or public
1408 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
1409 22, State Training and Certification Requirements, if the training or certification is required:

1410 (i) under this title;

1411 (ii) by the department; or

1412 (iii) by an agency or division within the department.

1413 (2) The department may in the course of supervising probationers and parolees:

1414 (a) impose graduated sanctions, as established by the Utah Sentencing Commission
1415 under Subsection 63M-7-404(6), for an individual's violation of one or more terms of the
1416 probation or parole; and

1417 (b) upon approval by the court or the Board of Pardons and Parole, impose as a
1418 sanction for an individual's violation of the terms of probation or parole a period of
1419 incarceration of not more than three consecutive days and not more than a total of five days
1420 within a period of 30 days.

1421 (3) (a) By following the procedures in Subsection (3)(b), the department may
1422 investigate the following occurrences at state correctional facilities:

1423 (i) criminal conduct of departmental employees;

1424 (ii) felony crimes resulting in serious bodily injury;

1425 (iii) death of any person; or

1426 (iv) aggravated kidnaping.

1427 (b) [~~Prior to~~] Before investigating any occurrence specified in Subsection (3)(a), the
1428 department shall:

1429 (i) notify the sheriff or other appropriate law enforcement agency promptly after

1430 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has
1431 occurred; and

1432 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to
1433 conduct an investigation involving an occurrence specified in Subsection (3)(a).

1434 (4) Upon request, the department shall provide copies of investigative reports of
1435 criminal conduct to the sheriff or other appropriate law enforcement agencies.

1436 ~~[(5) The Department of Corrections shall collect accounts receivable ordered by the
1437 district court as a result of prosecution for a criminal offense according to the requirements and
1438 during the time periods established in Subsection 77-18-1(9).]~~

1439 (5) (a) As used in this Subsection (5):

1440 (i) "Accounts receivable" means any amount owed by an offender arising from a
1441 criminal judgment that has not been paid.

1442 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
1443 surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims,
1444 reimbursement of a reward, and damages that an offender is ordered to pay.

1445 (b) The department shall collect and disburse, with any interest and any other costs
1446 assessed under Section 64-13-21, an accounts receivable for an offender during:

1447 (i) the parole period and any extension of that period in accordance with Subsection
1448 (5)(c); and

1449 (ii) the probation period for which the court orders supervised probation and any
1450 extension of that period by the department in accordance with Subsection 77-18-105(7).

1451 (c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the
1452 time that the offender's sentence expires or terminates, the department shall be referred to the
1453 sentencing court for the sentencing court to enter a civil judgment of restitution and a civil
1454 accounts receivable as described in Section 77-18-114.

1455 (ii) If the board makes an order for restitution within 60 days from the day on which
1456 the offender's sentence expires or terminates, the board shall refer the order for restitution to
1457 the sentencing court to be entered as a civil judgment of restitution as described in Section

1458 [77-18-114](#).

1459 (d) This Subsection (5) only applies to offenders sentenced before July 1, 2021.

1460 Section 21. Section **64-13-21** is amended to read:

1461 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**
1462 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**
1463 **fee.**

1464 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced
1465 offenders placed in the community on probation by the courts, on parole by the Board of
1466 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate
1467 Compact for the Supervision of Parolees and Probationers.

1468 (b) The department shall establish standards for the supervision of offenders in
1469 accordance with sentencing guidelines and supervision length guidelines, including the
1470 graduated sanctions matrix, established by the Utah Sentencing Commission, giving priority,
1471 based on available resources, to felony offenders and offenders sentenced pursuant to
1472 Subsection [58-37-8\(2\)\(b\)\(ii\)](#).

1473 (2) The department shall apply graduated sanctions established by the Utah Sentencing
1474 Commission to facilitate a prompt and appropriate response to an individual's violation of the
1475 terms of probation or parole, including:

1476 (a) sanctions to be used in response to a violation of the terms of probation or parole;
1477 and

1478 (b) requesting approval from the court or Board of Pardons and Parole to impose a
1479 sanction for an individual's violation of the terms of probation or parole, for a period of
1480 incarceration of not more than three consecutive days and not more than a total of five days
1481 within a period of 30 days.

1482 (3) The department shall implement a program of graduated incentives as established
1483 by the Utah Sentencing Commission to facilitate the department's prompt and appropriate
1484 response to an offender's:

1485 (a) compliance with the terms of probation or parole; or

1486 (b) positive conduct that exceeds those terms.

1487 (4) (a) The department shall, in collaboration with the Commission on Criminal and
1488 Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and
1489 procedures for the collection of information, including cost savings related to recidivism
1490 reduction and the reduction in the number of inmates, related to the use of the graduated
1491 sanctions and incentives, and offenders' outcomes.

1492 (b) The collected information shall be provided to the Commission on Criminal and
1493 Juvenile Justice not less frequently than annually on or before August 31.

1494 (5) Employees of the department who are POST certified as law enforcement officers
1495 or correctional officers and who are designated as parole and probation officers by the
1496 executive director have the following duties:

1497 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
1498 with the conditions of the parole or probation agreement;

1499 (b) investigating or apprehending any offender who has escaped from the custody of
1500 the department or absconded from supervision;

1501 (c) supervising any offender during transportation; or

1502 (d) collecting DNA specimens when the specimens are required under Section
1503 [53-10-404](#).

1504 (6) (a) A monthly supervision fee of \$30 shall be collected from each offender on
1505 probation or parole. The fee may be suspended or waived by the department upon a showing
1506 by the offender that imposition would create a substantial hardship or if the offender owes
1507 restitution to a victim.

1508 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
1509 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the
1510 supervision fee and the circumstances under which an offender may request a hearing.

1511 (ii) In determining whether the imposition of the supervision fee would constitute a
1512 substantial hardship, the department shall consider the financial resources of the offender and
1513 the burden that the fee would impose, with regard to the offender's other obligations.

1514 (7) (a) For offenders placed on probation under Section [~~77-18-1~~] 77-18-105 or parole
1515 under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the
1516 department shall establish a program allowing an offender to earn credits for the offender's
1517 compliance with the terms of the offender's probation or parole, which shall be applied to
1518 reducing the period of probation or parole as provided in this Subsection (7).

1519 (b) The program shall provide that an offender earns a reduction credit of 30 days from
1520 the offender's period of probation or parole for each month the offender completes without any
1521 violation of the terms of the offender's probation or parole agreement, including the case action
1522 plan.

1523 (c) The department shall maintain a record of credits earned by an offender under this
1524 Subsection (7) and shall request from the court or the Board of Pardons and Parole the
1525 termination of probation or parole not fewer than 30 days prior to the termination date that
1526 reflects the credits earned under this Subsection (7).

1527 (d) This Subsection (7) does not prohibit the department from requesting a termination
1528 date earlier than the termination date established by earned credits under Subsection (7)(c).

1529 (e) The court or the Board of Pardons and Parole shall terminate an offender's
1530 probation or parole upon completion of the period of probation or parole accrued by time
1531 served and credits earned under this Subsection (7) unless the court or the Board of Pardons
1532 and Parole finds that termination would interrupt the completion of a necessary treatment
1533 program, in which case the termination of probation or parole shall occur when the treatment
1534 program is completed.

1535 (f) The department shall report annually to the Commission on Criminal and Juvenile
1536 Justice on or before August 31:

1537 (i) the number of offenders who have earned probation or parole credits under this
1538 Subsection (7) in one or more months of the preceding fiscal year and the percentage of the
1539 offenders on probation or parole during that time that this number represents;

1540 (ii) the average number of credits earned by those offenders who earned credits;

1541 (iii) the number of offenders who earned credits by county of residence while on

1542 probation or parole;

1543 (iv) the cost savings associated with sentencing reform programs and practices; and

1544 (v) a description of how the savings will be invested in treatment and

1545 early-intervention programs and practices at the county and state levels.

1546 Section 22. Section **64-13-23** is amended to read:

1547 **64-13-23. Offender's income and finances.**

1548 (1) The department may require each offender, while in the custody of the department
1549 or while on probation or parole, to place funds received or earned by ~~[him]~~ the offender from
1550 any source into:

1551 (a) an account administered by the department; or ~~[into]~~

1552 (b) a joint account with the department at a federally insured financial institution.

1553 ~~[(1)]~~ (2) The department may require each offender to maintain a minimum balance in
1554 ~~[either or both accounts]~~ an account under Subsection (1) for the particular offender's use upon:

1555 (a) discharge from the custody of the department; or ~~[upon]~~

1556 (b) completion of parole or probation.

1557 ~~[(2)]~~ (3) If the funds are placed in a joint account at a federally insured financial
1558 institution:

1559 (a) any interest accrues to the benefit of the offender account; and

1560 (b) the department may require that the signatures of both the offender and a
1561 departmental representative be submitted to the financial institution to withdraw funds from the
1562 account.

1563 ~~[(3)]~~ (4) If the funds are placed in an account administered by the department, the
1564 department may by rule designate:

1565 (a) a certain portion of the offender's funds as interest-bearing savings~~;~~; and ~~[another]~~

1566 (b) a portion of the offender's funds as noninterest-bearing to be used for day-to-day
1567 expenses.

1568 ~~[(4)]~~ (5) The department may withhold part of the offender's funds in ~~[either account]~~
1569 an account under Subsection (1) for expenses of:

- 1570 (a) [~~incarceration, supervision,~~] supervision or treatment;
- 1571 (b) [~~court-ordered~~] restitution, reparation, fines, alimony, support payments, or similar
- 1572 court-ordered payments;
- 1573 (c) obtaining the offender's DNA specimen, if the offender is required under Section
- 1574 53-10-404 to provide a specimen;
- 1575 (d) department-ordered [~~restitution~~] repayment of a fine that is incurred under Section
- 1576 64-13-33; and
- 1577 (e) any other debt to the state.

1578 [~~(5)~~] (6) (a) [~~Offenders~~] An offender may not be granted free process in civil actions,
 1579 including petitions for a writ of habeas corpus, if, at any time from the date the cause of action
 1580 arose through the date the cause of action remains pending, there are any funds in [~~either~~
 1581 ~~account which~~] an account under Subsection (1) that have not been withheld or are not subject
 1582 to withholding under Subsection [~~(3) or (4)~~] (4) or (5).

1583 (b) The amount assessed for the filing fee, service of process and other fees and costs
 1584 shall not exceed the total amount of funds the offender has in excess of the indigence threshold
 1585 established by the department but not less than \$25 including the withholdings under
 1586 Subsection [~~(3) or (4)~~] (4) or (5) during the identified period of time.

1587 (c) The amounts assessed shall not exceed the regular fees and costs provided by law.
 1588 [~~(6)~~] (7) The department may disclose information on offender accounts to the Office
 1589 of Recovery Services and other appropriate state agencies.

1590 Section 23. Section **64-13-33** is amended to read:

1591 **64-13-33. Fines for violation of department rules -- Debt collection.**

1592 (1) (a) Following an administrative hearing, the department is authorized to:

1593 (i) assess a reasonable fine against the offender for expenses incurred by the
 1594 department as a result of the offender's violation of department rules; and

1595 (ii) require [~~restitution~~] repayment from [an offender for expenses incurred by the
 1596 department as a result of the offender's violation of department rules.] the offender for the fine
 1597 under Subsection (1)(a)(i).

1598 (b) The department is authorized to require payment from the offender's account or to
1599 place a hold on [it] the offender's account to secure compliance with this section.

1600 (2) The department shall turn over to the Office of State Debt Collection any debt
1601 under this section that is unpaid at the time that the offender is released from parole.

1602 Section 24. Section **64-13e-102** is amended to read:

1603 **64-13e-102. Definitions.**

1604 As used in this chapter:

1605 (1) "Actual county daily incarceration rate" means the median amount of jail daily
1606 incarceration costs based on the data submitted by counties in accordance with Section
1607 [64-13e-104\(6\)\(b\)](#).

1608 (2) "Actual state daily incarceration rate" means the average daily incarceration rate,
1609 calculated by the department based on the previous three fiscal years, that reflects the following
1610 expenses incurred by the department for housing an inmate:

- 1611 (a) executive overhead;
- 1612 (b) administrative overhead;
- 1613 (c) transportation overhead;
- 1614 (d) division overhead; and
- 1615 (e) motor pool expenses.

1616 (3) "Alternative treatment" means:

- 1617 (a) evidence-based cognitive behavioral therapy; or
- 1618 (b) a certificate-based program provided by a Utah technical college, as defined in
1619 Section [53B-26-102](#).

1620 (4) "Annual inmate jail days" means the total number of state probationary inmates
1621 housed in a county jail each day for the preceding fiscal year.

1622 (5) "CCJJ" means the Utah Commission on Criminal and Juvenile Justice, created in
1623 Section [63M-7-201](#).

1624 (6) "Department" means the Department of Corrections.

1625 (7) "Division of Finance" means the Division of Finance, created in Section

1626 63A-3-101.

1627 (8) "Final county daily incarceration rate" means the amount equal to:

1628 (a) the amount appropriated by the Legislature for the purpose of making payments to
1629 counties under Section 64-13e-104; divided by

1630 (b) the average annual inmate jail days for the preceding five fiscal years.

1631 (9) "Jail daily incarceration costs" means the following daily costs incurred by a county
1632 jail for housing a state probationary inmate on behalf of the department:

1633 (a) executive overhead;

1634 (b) administrative overhead;

1635 (c) transportation overhead;

1636 (d) division overhead; and

1637 (e) motor pool expenses.

1638 (10) "State inmate" means an individual, other than a state probationary inmate or state
1639 parole inmate, who is committed to the custody of the department.

1640 (11) "State parole inmate" means an individual who is:

1641 (a) on parole, as defined in Section 77-27-1; and

1642 (b) housed in a county jail for a reason related to the individual's parole.

1643 (12) "State probationary inmate" means a felony probationer sentenced to time in a
1644 county jail under Subsection [~~77-18-1(8)~~] 77-18-105(6).

1645 (13) "Treatment program" means:

1646 (a) an alcohol treatment program;

1647 (b) a substance abuse treatment program;

1648 (c) a sex offender treatment program; or

1649 (d) an alternative treatment program.

1650 Section 25. Section 75-7-503 is amended to read:

1651 **75-7-503. Exceptions to spendthrift provision.**

1652 (1) As used in this section:

1653 (a) "Child" includes any person for whom an order or judgment for child support has

1654 been entered in this or another state.

1655 (b) "Civil accounts receivable" means the same as that term is defined in Section
 1656 77-32b-102.

1657 (c) "Civil restitution of judgment" means the same as that term is defined in Section
 1658 77-32b-102.

1659 ~~[(b)]~~ (d) "Restitution" means the same as that term is defined in Section [77-38a-102]
 1660 77-38b-102.

1661 ~~[(c)]~~ (e) "Victim" means the same as that term is defined in Section [77-38a-102]
 1662 77-38b-102.

1663 (2) Even if a trust contains a spendthrift provision, the following persons may obtain
 1664 ~~[from a court an order attaching]~~ an order from a court that attaches present or future
 1665 distributions to the beneficiary:

1666 (a) a beneficiary's child who has a judgment or court order against the beneficiary for
 1667 support or maintenance;

1668 (b) a judgment creditor who has provided services for the protection of a beneficiary's
 1669 interest in the trust; ~~[or]~~

1670 (c) a victim who has a judgment requiring the beneficiary to pay restitution in
 1671 accordance with Title 77, ~~[Chapter 38a,]~~ Chapter 38b, Crime Victims Restitution Act, or
 1672 similar provision in another state~~[-];~~ or

1673 (d) the Office of State Debt Collection, created in Section 63A-3-502, for collecting
 1674 payment on a civil accounts receivable or a civil judgment of restitution.

1675 (3) A spendthrift provision is unenforceable against a claim of this state or the United
 1676 States to the extent a statute of this state or federal law so provides.

1677 Section 26. Section **76-2-404** is amended to read:

1678 **76-2-404. Peace officer's use of deadly force.**

1679 (1) A peace officer, or any person acting by the officer's command in providing aid and
 1680 assistance, is justified in using deadly force when:

1681 (a) the officer is acting in obedience to and in accordance with the judgment of a

1682 competent court in executing a penalty of death under Subsection [~~77-18-5.5~~] [77-18-113](#)(2),
1683 (3), or (4);

1684 (b) effecting an arrest or preventing an escape from custody following an arrest, where
1685 the officer reasonably believes that deadly force is necessary to prevent the arrest from being
1686 defeated by escape; and

1687 (i) the officer has probable cause to believe that the suspect has committed a felony
1688 offense involving the infliction or threatened infliction of death or serious bodily injury; or

1689 (ii) the officer has probable cause to believe the suspect poses a threat of death or
1690 serious bodily injury to the officer or to others if apprehension is delayed; or

1691 (c) the officer reasonably believes that the use of deadly force is necessary to prevent
1692 death or serious bodily injury to the officer or another person.

1693 (2) If feasible, a verbal warning should be given by the officer prior to any use of
1694 deadly force under Subsection (1)(b) or (1)(c).

1695 Section 27. Section [76-3-201](#) is repealed and reenacted to read:

1696 **76-3-201. Sentences or combination of sentences allowed -- Restitution and other**
1697 **costs -- Civil penalties.**

1698 (1) As used in this section:

1699 (a) (i) "Convicted" means:

1700 (A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a
1701 mental illness; or

1702 (B) having received a judgment of guilty or a judgment of guilty with a mental illness.

1703 (ii) "Convicted" does not include an adjudication of an offense under Section

1704 [78A-6-117](#).

1705 (b) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

1706 (2) Within the limits provided by this chapter, a court may sentence an individual
1707 convicted of an offense to any one of the following sentences, or combination of the following
1708 sentences:

1709 (a) to pay a fine;

- 1710 (b) to removal or disqualification from public or private office;
- 1711 (c) except as otherwise provided by law, to probation in accordance with Section
- 1712 77-18-105;
- 1713 (d) to imprisonment;
- 1714 (e) on or after April 27, 1992, to life in prison without parole; or
- 1715 (f) to death.
- 1716 (3) (a) This chapter does not deprive a court of authority conferred by law:
- 1717 (i) to forfeit property;
- 1718 (ii) to dissolve a corporation;
- 1719 (iii) to suspend or cancel a license;
- 1720 (iv) to permit removal of an individual from office;
- 1721 (v) to cite for contempt; or
- 1722 (vi) to impose any other civil penalty.
- 1723 (b) A court may include a civil penalty in a sentence.
- 1724 (4) In addition to any other sentence that a sentencing court may impose, the court shall
- 1725 order an individual to:
- 1726 (a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victim Restitution
- 1727 Act;
- 1728 (b) subject to Subsection (5) and Section 77-32b-104, pay the cost of any government
- 1729 transportation if the individual was:
- 1730 (i) transported, in accordance with a court order, from one county to another county
- 1731 within the state;
- 1732 (ii) charged with a felony or a misdemeanor; and
- 1733 (iii) convicted of an offense;
- 1734 (c) subject to Section 77-32b-104, pay the cost expended by an appropriate
- 1735 governmental entity under Section 77-30-24 for the extradition of the individual if the
- 1736 individual:
- 1737 (i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve

1738 pending criminal charges; and
1739 (ii) is convicted of an offense in the county for which the individual is returned;
1740 (d) subject to Subsection (6) and Subsections 77-32b-104(2), (3), and (4), pay the cost
1741 of medical care, treatment, hospitalization, and related transportation, as described in Section
1742 17-50-319, that is provided by a county to the individual while the individual is in a county
1743 correctional facility before and after sentencing if:
1744 (i) the individual is convicted of an offense that results in incarceration in the county
1745 correctional facility; and
1746 (ii) (A) the individual is not a state prisoner housed in the county correctional facility
1747 through a contract with the Department of Corrections; or
1748 (B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104
1749 if the individual is a state probationary inmate or a state parole inmate; and
1750 (e) pay any other cost that the court determines is appropriate under Section
1751 77-32b-104.
1752 (5) (a) The court may not order an individual to pay the costs of government
1753 transportation under Subsection (4)(b) if:
1754 (i) the individual is charged with an infraction or a warrant is issued for an infraction
1755 on a subsequent failure to appear; or
1756 (ii) the individual was not transported in accordance with a court order.
1757 (b) (i) The cost of governmental transportation under Subsection (4)(b) shall be
1758 calculated according to the following schedule:
1759 (A) \$100 for up to 100 miles that an individual is transported;
1760 (B) \$200 for 100 miles to 200 miles that an individual is transported; and
1761 (C) \$350 for 200 miles or more that an individual is transported.
1762 (ii) The schedule under Subsection (5)(b)(i) applies to each individual transported
1763 regardless of the number of individuals transported in a single trip.
1764 (6) The cost of medical care under Subsection (4)(d) does not include expenses
1765 incurred by the county correctional facility in providing reasonable accommodation for an

1766 inmate qualifying as an individual with a disability as defined and covered by the Americans
1767 with Disabilities Act, 42 U.S.C. 12101 through 12213, including medical and mental health
1768 treatment for the inmate's disability.

1769 Section 28. Section **76-3-208** is amended to read:

1770 **76-3-208. Imprisonment -- Custodial authorities.**

1771 (1) Persons sentenced to imprisonment shall be committed to the following custodial
1772 authorities:

1773 (a) felony commitments shall be to the Utah State Prison;

1774 (b) (i) notwithstanding Section [76-3-204](#), class A misdemeanor commitments shall be
1775 to the jail, or other facility designated by the town, city, or county where the defendant was
1776 convicted, unless the defendant is also serving a felony commitment at the Utah State Prison at
1777 the commencement of the class A misdemeanor conviction, in which case, the class A
1778 misdemeanor commitment shall be to the Utah State Prison for an indeterminate term not to
1779 exceed one year with a credit for one day; and

1780 (ii) the court may not order the imprisonment of a defendant to the Utah State Prison
1781 for a fixed term or other term that is inconsistent with this section and Section [[77-18-4](#)]
1782 [77-18-111](#); and

1783 (c) all other misdemeanor commitments shall be to the jail or other facility designated
1784 by the town, city or county where the defendant was convicted.

1785 (2) [~~Custodial authorities~~] A custodial authority may place a prisoner in a facility other
1786 than the one to which the prisoner was committed when:

1787 (a) [~~it~~] the custodial authority does not have space to accommodate the prisoner; or

1788 (b) the security of the institution or [~~inmate requires it.~~] prisoner requires the prisoner
1789 to be placed in a facility other than the one to which the prisoner was committed.

1790 Section 29. Section **76-3-301.5** is amended to read:

1791 **76-3-301.5. Uniform fine schedule -- Judicial Council.**

1792 (1) The Judicial Council shall establish a uniform recommended fine schedule for each
1793 offense under Subsection [76-3-301\(1\)](#).

1794 (a) The fine for each offense shall proportionally reflect the seriousness of the offense
1795 and other factors as determined in writing by the Judicial Council.

1796 (b) The schedule shall be reviewed annually by the Judicial Council.

1797 (c) The fines shall be collected [~~under Section 77-18-1.~~] as part of a criminal accounts
1798 receivable, as defined in Section 77-32b-102, that is established under Section 77-32b-103.

1799 (2) The schedule shall incorporate:

1800 (a) criteria for determining aggravating and mitigating circumstances; and

1801 (b) guidelines for enhancement or reduction of the fine, based on aggravating or
1802 mitigating circumstances.

1803 (3) Presentence investigation reports shall include documentation of aggravating and
1804 mitigating circumstances as determined under the criteria, and a recommended fine under the
1805 schedule.

1806 (4) The Judicial Council shall also establish a separate uniform recommended fine
1807 schedule for the juvenile court and by rule provide for its implementation.

1808 (5) This section does not prohibit the court from in its discretion imposing no fine, or a
1809 fine in any amount up to and including the maximum fine, for the offense.

1810 Section 30. Section **76-3-406** is amended to read:

1811 **76-3-406. Crimes for which probation, suspension of sentence, lower category of**
1812 **offense, or hospitalization may not be granted.**

1813 (1) Notwithstanding Sections [76-3-201](#) and [~~77-18-1~~] [77-18-105](#) and Title 77, Chapter
1814 16a, Commitment and Treatment of Persons with a Mental Illness, except as provided in
1815 Section [76-5-406.5](#), probation may not be granted, the execution or imposition of sentence may
1816 not be suspended, the court may not enter a judgment for a lower category of offense, and
1817 hospitalization may not be ordered, the effect of which would in any way shorten the prison
1818 sentence for an individual who commits a capital felony or a first degree felony involving:

1819 (a) Section [76-5-202](#), aggravated murder;

1820 (b) Section [76-5-203](#), murder;

1821 (c) Section [76-5-301.1](#), child kidnaping;

- 1822 (d) Section 76-5-302, aggravated kidnaping;
- 1823 (e) Section 76-5-402, rape, if the individual is sentenced under Subsection
- 1824 76-5-402(3)(b), (3)(c), or (4);
- 1825 (f) Section 76-5-402.1, rape of a child;
- 1826 (g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection
- 1827 76-5-402.2(1)(b), (1)(c), or (2);
- 1828 (h) Section 76-5-402.3, object rape of a child;
- 1829 (i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection
- 1830 76-5-403(3)(b), (3)(c), or (4);
- 1831 (j) Section 76-5-403.1, sodomy on a child;
- 1832 (k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under
- 1833 Subsection 76-5-404(2)(b) or (3);
- 1834 (l) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;
- 1835 (m) Section 76-5-405, aggravated sexual assault; or
- 1836 (n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).
- 1837 (2) Except for an offense before the district court in accordance with Section
- 1838 78A-6-703.2 or 78A-6-703.5, the provisions of this section do not apply if the sentencing court
- 1839 finds that the defendant:
- 1840 (a) was under 18 years old at the time of the offense; and
- 1841 (b) could have been adjudicated in the juvenile court but for the delayed reporting or
- 1842 delayed filing of the information.
- 1843 Section 31. Section 76-6-107.1 is amended to read:
- 1844 **76-6-107.1. Compensatory service -- Graffiti penalties.**
- 1845 (1) If an offender uses graffiti and is convicted under Section 76-6-106 or 76-6-206 for
- 1846 ~~[its use]~~ the use of graffiti, the court may, as a condition of probation under Subsection
- 1847 ~~[77-18-1(8)]~~ 77-18-105(6), order the offender to clean up graffiti of ~~[his own]~~ the offender and
- 1848 any other at a time and place within the jurisdiction of the court.
- 1849 (a) For a first conviction or adjudication, the court may require the offender to clean up

1850 graffiti for not less than eight hours.

1851 (b) For a second conviction or adjudication, the court may require the offender to clean
1852 up graffiti for not less than 16 hours.

1853 (c) For a third conviction or adjudication, the court may require the offender to clean
1854 up graffiti for not less than 24 hours.

1855 (2) The offender convicted under Section 76-6-106, 76-6-206, or 76-6-107 shall be
1856 responsible for removal costs as determined under Section 76-6-107, unless waived by the
1857 court for good cause.

1858 (3) The court may also require the offender to perform other alternative forms of
1859 restitution or repair to the damaged property [~~pursuant to Subsection 77-18-1(8).~~] in
1860 accordance with Subsection 77-18-105(6).

1861 Section 32. Section 76-6-111 is amended to read:

1862 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**
1863 **Seizure and disposition of property.**

1864 (1) As used in this section:

1865 (a) "Law enforcement officer" means the same as that term is defined in Section
1866 53-13-103.

1867 (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit,
1868 including:

1869 (i) cattle;

1870 (ii) sheep;

1871 (iii) goats;

1872 (iv) swine;

1873 (v) horses;

1874 (vi) mules;

1875 (vii) poultry; and

1876 (viii) domesticated elk as defined in Section 4-39-102.

1877 (2) Unless authorized by Section 4-25-201, 4-25-202, 4-25-401, 4-39-401, or 18-1-3, a

- 1878 person is guilty of wanton destruction of livestock if that person:
- 1879 (a) injures, physically alters, releases, or causes the death of livestock; and
- 1880 (b) does so:
- 1881 (i) intentionally or knowingly; and
- 1882 (ii) without the permission of the owner of the livestock.
- 1883 (3) Wanton destruction of livestock is punishable as a:
- 1884 (a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;
- 1885 (b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but
- 1886 does not exceed \$1,500;
- 1887 (c) third degree felony if the aggregate value of the livestock is more than \$1,500, but
- 1888 does not exceed \$5,000; and
- 1889 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.
- 1890 (4) When a court orders a person who is convicted of wanton destruction of livestock
- 1891 to pay restitution under Title 77, Chapter ~~[38a]~~ 38b, Crime Victims Restitution Act, the court
- 1892 shall consider~~[- in addition to the restitution criteria in Section 77-38a-302, the restitution~~
- 1893 ~~guidelines in Subsection (5) when setting the amount.]~~ the restitution guidelines in Subsection
- 1894 (5) when setting the amount of restitution under Section 77-38b-205.
- 1895 (5) The minimum restitution value for cattle and sheep is the sum of the following,
- 1896 unless the court states on the record why it finds the sum to be inappropriate:
- 1897 (a) the fair market value of the animal, using as a guide the market information
- 1898 obtained from the Department of Agriculture and Food created under Section 4-2-102; and
- 1899 (b) 10 years times the average annual value of offspring, for which average annual
- 1900 value is determined using data obtained from the National Agricultural Statistics Service within
- 1901 the United States Department of Agriculture, for the most recent 10-year period available.
- 1902 (6) A material, device, or vehicle used in violation of Subsection (2) is subject to
- 1903 forfeiture under the procedures and substantive protections established in Title 24, Forfeiture
- 1904 and Disposition of Property Act.
- 1905 (7) A peace officer may seize a material, device, or vehicle used in violation of

1906 Subsection (2):

1907 (a) upon notice and service of process issued by a court having jurisdiction over the
1908 property; or

1909 (b) without notice and service of process if:

1910 (i) the seizure is incident to an arrest under:

1911 (A) a search warrant; or

1912 (B) an inspection under an administrative inspection warrant;

1913 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of
1914 the state in a criminal injunction or forfeiture proceeding under this section; or

1915 (iii) the peace officer has probable cause to believe that the property has been used in
1916 violation of Subsection (2).

1917 (8) (a) A material, device, or vehicle seized under this section is not repleviable but is
1918 in custody of the law enforcement agency making the seizure, subject only to the orders and
1919 decrees of a court or official having jurisdiction.

1920 (b) A peace officer who seizes a material, device, or vehicle under this section may:

1921 (i) place the property under seal;

1922 (ii) remove the property to a place designated by the warrant under which it was seized;

1923 or

1924 (iii) take custody of the property and remove it to an appropriate location for
1925 disposition in accordance with law.

1926 Section 33. Section **76-6-206.2** is amended to read:

1927 **76-6-206.2. Criminal trespass on state park lands -- Penalties.**

1928 (1) [~~For purposes of this section~~] As used in this section:

1929 (a) "Authorization" means specific written permission by, or contractual agreement
1930 with, the Division of Parks and Recreation.

1931 (b) "Criminal trespass" means the elements of the crime of criminal trespass, as set
1932 forth in Section [76-6-206](#).

1933 (c) "Division" means the Division of Parks and Recreation[;] created in Section

1934 79-4-201.

1935 (d) "State park lands" means all lands administered by the division.

1936 (2) A person is guilty of criminal trespass on state park lands and is liable for the civil
1937 damages prescribed in Subsection (5) if, under circumstances not amounting to a greater
1938 offense, and without authorization, the person:

1939 (a) constructs improvements or structures on state park lands;

1940 (b) uses or occupies state park lands for more than 30 days after the cancellation or
1941 expiration of authorization;

1942 (c) knowingly or intentionally uses state park lands for commercial gain;

1943 (d) intentionally or knowingly grazes livestock on state park lands, except as provided
1944 in Section 72-3-112; or

1945 (e) remains, after being ordered to leave by someone with actual authority to act for the
1946 division, or by a law enforcement officer.

1947 (3) A person is not guilty of criminal trespass if that person enters onto state park
1948 lands:

1949 (a) without first paying the required fee; and

1950 (b) for the sole purpose of pursuing recreational activity.

1951 (4) A violation of Subsection (2) is a class B misdemeanor.

1952 (5) In addition to ~~[restitution, as provided in Section 76-3-201]~~ an order for restitution
1953 under Section 77-38b-205, a person who commits any act described in Subsection (2) may also
1954 be liable for civil damages in the amount of three times the value of:

1955 (a) damages resulting from a violation of Subsection (2);

1956 (b) the water, mineral, vegetation, improvement, or structure on state park lands that is
1957 removed, destroyed, used, or consumed without authorization;

1958 (c) the historical, prehistorical, archaeological, or paleontological resource on state
1959 park lands that is removed, destroyed, used, or consumed without authorization; or

1960 (d) the consideration which would have been charged by the division for unauthorized
1961 use of the land and resources during the period of trespass.

1962 (6) Civil damages under Subsection (5) may be collected in a separate action by the
1963 division, and shall be deposited in the State Parks Fees Restricted Account as established in
1964 Section 79-4-402.

1965 Section 34. Section 76-6-206.3 is amended to read:

1966 **76-6-206.3. Criminal trespass on agricultural land or range land.**

1967 (1) As used in this section:

1968 (a) "Agricultural or range land" and "land" mean land as defined under Subsections
1969 (1)(d) and (e).

1970 (b) "Authorization" means specific written permission by, or contractual agreement
1971 with, the owner or manager of the property.

1972 (c) "Criminal trespass" means the elements of the crime of criminal trespass under
1973 Section 76-6-206.

1974 (d) "Land in agricultural use" has the same meaning as in Section 59-2-502.

1975 (e) "Range land" means privately owned land that is not fenced or divided into lots and
1976 that is generally unimproved. This land includes land used for livestock.

1977 (2) A person is guilty of the class B misdemeanor criminal offense of criminal trespass
1978 on agricultural or range land and is liable for the civil damages under Subsection (5) if, under
1979 circumstances not amounting to a greater offense, and without authorization or a right under
1980 state law, the person enters or remains on agricultural or range land regarding which notice
1981 prohibiting entry is given by:

1982 (a) personal communication to the person by the owner of the land, an employee of the
1983 owner, or a person with apparent authority to act for the owner;

1984 (b) fencing or other form of enclosure a reasonable person would recognize as intended
1985 to exclude intruders; or

1986 (c) posted signs or markers that would reasonably be expected to be seen by persons in
1987 the area of the borders of the land.

1988 (3) A person is guilty of the class B misdemeanor criminal offense of cutting,
1989 destroying, or rendering ineffective the fencing of agricultural or range land if the person

1990 willfully cuts, destroys, or renders ineffective any fencing as described under Subsection (2)(b).

1991 (4) In addition to [~~restitution, as provided in Section 76-3-201~~] an order for restitution

1992 under Section 77-38b-205, a person who commits any violation of Subsection (2) or (3) may

1993 also be liable for:

1994 (a) statutory damages in the amount of the value of damages resulting from the

1995 violation of Subsection (2) or \$500, whichever is greater; and

1996 (b) reasonable attorney fees not to exceed \$250, and court costs.

1997 (5) Civil damages under Subsection (4) may be collected in a separate action by the

1998 owner of the agricultural or range land or the owner's assignee.

1999 Section 35. Section **76-6-1102** is amended to read:

2000 **76-6-1102. Identity fraud crime.**

2001 (1) As used in this part[~~,"personal"~~]:

2002 (a) "Personal identifying information" may include:

2003 [~~(a)~~] (i) name;

2004 [~~(b)~~] (ii) birth date;

2005 [~~(c)~~] (iii) address;

2006 [~~(d)~~] (iv) telephone number;

2007 [~~(e)~~] (v) drivers license number;

2008 [~~(f)~~] (vi) Social Security number;

2009 [~~(g)~~] (vii) place of employment;

2010 [~~(h)~~] (viii) employee identification numbers or other personal identification numbers;

2011 [~~(i)~~] (ix) mother's maiden name;

2012 [~~(j)~~] (x) electronic identification numbers;

2013 [~~(k)~~] (xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic

2014 Transactions Act;

2015 [~~(l)~~] (xii) any other numbers or information that can be used to access a person's

2016 financial resources or medical information, except for numbers or information that can be

2017 prosecuted as financial transaction card offenses under Sections 76-6-506 through 76-6-506.6;

2018 or

2019 ~~[(m)]~~ (xiii) a photograph or any other realistic likeness.

2020 (b) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

2021 (2) (a) A person is guilty of identity fraud when that person knowingly or intentionally
2022 uses, or attempts to use, the personal identifying information of another person, whether that
2023 person is alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain,
2024 credit, goods, services, employment, any other thing of value, or medical information.

2025 (b) It is not a defense to a violation of Subsection (2)(a) that the person did not know
2026 that the personal information belonged to another person.

2027 (3) Identity fraud is:

2028 (a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the
2029 credit, goods, services, employment, or any other thing of value is less than \$5,000; or

2030 (b) a second degree felony if:

2031 (i) the value of the credit, goods, services, employment, or any other thing of value is
2032 or exceeds \$5,000; or

2033 (ii) the use described in Subsection (2)(a) of personal identifying information results,
2034 directly or indirectly, in bodily injury to another person.

2035 (4) Multiple violations may be aggregated into a single offense, and the degree of the
2036 offense is determined by the total value of all credit, goods, services, or any other thing of
2037 value used, or attempted to be used, through the multiple violations.

2038 (5) When a defendant is convicted of a violation of this section, the court shall order
2039 the defendant to ~~[make restitution to any victim of the offense or state on the record the reason~~
2040 ~~the court does not find ordering restitution to be appropriate]~~ pay restitution in accordance with
2041 Title 77, Chapter 38b, Crime Victims Restitution Act.

2042 (6) Restitution under Subsection (5) may include:

2043 (a) payment for any costs incurred, including attorney fees, lost wages, and
2044 replacement of checks; and

2045 (b) the value of the victim's time incurred due to the offense:

- 2046 (i) in clearing the victim's credit history or credit rating;
- 2047 (ii) in any civil or administrative proceedings necessary to satisfy or resolve any debt,
- 2048 lien, or other obligation of the victim or imputed to the victim and arising from the offense; and
- 2049 (iii) in attempting to remedy any other intended or actual harm to the victim incurred as
- 2050 a result of the offense.

2051 Section 36. Section **76-6-1105** is amended to read:

2052 **76-6-1105. Unlawful possession of another's identification documents.**

2053 (1) As used in this section:

2054 (a) (i) "Identifying document" means:

2055 (A) a government issued document commonly used for identification;

2056 (B) a vehicle registration certificate; or

2057 (C) any other document, image, data file, or medium containing personal identifying

2058 information as defined in Subsections ~~76-6-1102[(1)(b) through (m)]~~ (1)(a)(ii) through (xiii).

2059 (ii) "Identifying document" includes:

2060 (A) a counterfeit identifying document; or

2061 (B) a document containing personal identifying information of a deceased individual.

2062 (b) "Possess" means to have physical control or electronic access.

2063 (2) (a) Under circumstances that do not constitute a violation of Section ~~76-6-1102~~ or

2064 Section ~~76-6-502~~, an individual is guilty of a class A misdemeanor if the individual:

2065 (i) obtains or possesses an identifying document:

2066 (A) with knowledge that the individual is not entitled to obtain or possess the

2067 identifying document; or

2068 (B) with intent to deceive or defraud; or

2069 (ii) assists another person in obtaining or possessing an identifying document:

2070 (A) with knowledge that the person is not entitled to obtain or possess the identifying

2071 document; or

2072 (B) with knowledge that the person intends to use the identifying document to deceive

2073 or defraud.

2074 (b) Under circumstances that do not constitute a violation of Section 76-6-1102, an
2075 individual is guilty of a third degree felony if the individual:

2076 (i) obtains or possesses identifying documents of more than two, but fewer than 100,
2077 individuals:

2078 (A) with knowledge that the individual is not entitled to obtain or possess the
2079 identifying documents; or

2080 (B) with intent to deceive or defraud; or

2081 (ii) assists another person in obtaining or possessing identifying documents of more
2082 than two, but fewer than 100, individuals:

2083 (A) with knowledge that the person is not entitled to obtain or possess the multiple
2084 identifying documents; or

2085 (B) with knowledge that the person intends to use the identifying documents to deceive
2086 or defraud.

2087 (c) Under circumstances that do not constitute a violation of Section 76-6-1102, an
2088 individual is guilty of a second degree felony if the individual:

2089 (i) obtains or possesses identifying documents of 100 or more individuals:

2090 (A) with knowledge that the individual is not entitled to obtain or possess the
2091 identifying documents; or

2092 (B) with intent to deceive or defraud; or

2093 (ii) assists another person in obtaining or possessing identifying documents of 100 or
2094 more individuals:

2095 (A) with knowledge that the person is not entitled to obtain or possess the identifying
2096 documents; or

2097 (B) with knowledge that the person intends to use the identifying documents to deceive
2098 or defraud.

2099 Section 37. Section 76-10-1204 is amended to read:

2100 **76-10-1204. Distributing pornographic material -- Penalties -- Exemptions for**
2101 **Internet service providers and hosting companies.**

2102 (1) A person is guilty of distributing pornographic material when the person
2103 knowingly:

2104 (a) sends or brings any pornographic material into the state with intent to distribute or
2105 exhibit it to others;

2106 (b) prepares, publishes, prints, or possesses any pornographic material with intent to
2107 distribute or exhibit it to others;

2108 (c) distributes or offers to distribute, or exhibits or offers to exhibit, any pornographic
2109 material to others;

2110 (d) writes, creates, or solicits the publication or advertising of pornographic material;

2111 (e) promotes the distribution or exhibition of material the person represents to be
2112 pornographic; or

2113 (f) presents or directs a pornographic performance in any public place or any place
2114 exposed to public view or participates in that portion of the performance which makes it
2115 pornographic.

2116 (2) Each distributing of pornographic material as defined in Subsection (1) is a separate
2117 offense.

2118 (3) It is a separate offense under this section for:

2119 (a) each day's exhibition of any pornographic motion picture film; and

2120 (b) each day in which any pornographic publication is displayed or exhibited in a
2121 public place with intent to distribute or exhibit it to others.

2122 (4) (a) An offense under this section committed by a person 18 years [~~of age~~] old or
2123 older is a third degree felony punishable by:

2124 (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article
2125 exhibited up to the maximum allowed by law; and

2126 (ii) incarceration, without suspension of sentence in any way, for a term of not less than
2127 30 days.

2128 (b) An offense under this section committed by a person 16 or 17 years [~~of age~~] old is a
2129 class A misdemeanor.

2130 (c) An offense under this section committed by a person younger than 16 years [~~of age~~
2131 old] is a class B misdemeanor.

2132 (d) Subsection (4)(a) supersedes Section [~~77-18-1~~] 77-18-105.

2133 (5) A person 18 years [~~of age~~] old or older who knowingly solicits, requests,
2134 commands, encourages, or intentionally aids another person younger than 18 years [~~of age~~] old
2135 to engage in conduct prohibited under Subsection (1), (2), or (3) is guilty of a third degree
2136 felony and is subject to the penalties under Subsection (4)(a).

2137 (6) (a) This section does not apply to an Internet service provider, as defined in Section
2138 76-10-1230, if:

2139 (i) the distribution of pornographic material by the Internet service provider occurs
2140 only incidentally through the Internet service provider's function of:

2141 (A) transmitting or routing data from one person to another person; or

2142 (B) providing a connection between one person and another person;

2143 (ii) the Internet service provider does not intentionally aid or abet in the distribution of
2144 the pornographic material; and

2145 (iii) the Internet service provider does not knowingly receive funds from or through a
2146 person who distributes the pornographic material in exchange for permitting the person to
2147 distribute the pornographic material.

2148 (b) This section does not apply to a hosting company, as defined in Section
2149 76-10-1230, if:

2150 (i) the distribution of pornographic material by the hosting company occurs only
2151 incidentally through the hosting company's function of providing data storage space or data
2152 caching to a person;

2153 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
2154 of the pornographic material; and

2155 (iii) the hosting company does not knowingly receive funds from or through a person
2156 who distributes the pornographic material in exchange for permitting the person to distribute,
2157 store, or cache the pornographic material.

2158 Section 38. Section **76-10-1205** is amended to read:

2159 **76-10-1205. Inducing acceptance of pornographic material -- Exemptions for**
2160 **Internet service providers and hosting companies.**

2161 (1) A person is guilty of inducing acceptance of pornographic material when he
2162 knowingly:

2163 (a) requires or demands as a condition to a sale, allocation, consignment, or delivery
2164 for resale of any newspaper, magazine, periodical, book, publication, or other merchandise that
2165 the purchaser or consignee receive any pornographic material or material reasonably believed
2166 by the purchaser or consignee to be pornographic; or

2167 (b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any
2168 penalty, financial or otherwise, because of the failure or refusal to accept pornographic material
2169 or material reasonably believed by the purchaser or consignee to be pornographic.

2170 (2) (a) An offense under this section is a third degree felony punishable by:

2171 (i) a minimum mandatory fine of not less than \$1,000 plus \$10 for each article
2172 exhibited up to the maximum allowed by law; and

2173 (ii) incarceration, without suspension of sentence in any way, for a term of not less than
2174 30 days.

2175 (b) This Subsection (2) supersedes Section [~~77-18-1~~] [77-18-105](#).

2176 (3) (a) This section does not apply to an Internet service provider, as defined in Section
2177 [76-10-1230](#), if:

2178 (i) the distribution of pornographic material by the Internet service provider occurs
2179 only incidentally through the Internet service provider's function of:

2180 (A) transmitting or routing data from one person to another person; or

2181 (B) providing a connection between one person and another person;

2182 (ii) the Internet service provider does not intentionally aid or abet in the distribution of
2183 the pornographic material; and

2184 (iii) the Internet service provider does not knowingly receive funds from or through a
2185 person who distributes the pornographic material in exchange for permitting the person to

2186 distribute the pornographic material.

2187 (b) This section does not apply to a hosting company, as defined in Section
2188 76-10-1230, if:

2189 (i) the distribution of pornographic material by the hosting company occurs only
2190 incidentally through the hosting company's function of providing data storage space or data
2191 caching to a person;

2192 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
2193 of the pornographic material; and

2194 (iii) the hosting company does not knowingly receive funds from or through a person
2195 who distributes the pornographic material in exchange for permitting the person to distribute,
2196 store, or cache the pornographic material.

2197 Section 39. Section 76-10-1206 is amended to read:

2198 **76-10-1206. Dealing in material harmful to a minor -- Penalties -- Exemptions for**
2199 **Internet service providers and hosting companies.**

2200 (1) A person is guilty of dealing in material harmful to minors when, knowing or
2201 believing that an individual is a minor, or having negligently failed to determine the proper age
2202 of a minor, the person intentionally:

2203 (a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or an
2204 individual whom the person believes to be a minor, any material harmful to minors;

2205 (b) produces, performs, or directs any performance, before a minor or an individual
2206 whom the person believes to be a minor, that is harmful to minors; or

2207 (c) participates in any performance, before a minor or an individual whom the person
2208 believes to be a minor, that is harmful to minors.

2209 (2) (a) Except as provided in Subsection (2)(b), each separate offense under this section
2210 committed by a person 18 years ~~[of age]~~ old or older is a third degree felony punishable by:

2211 (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article
2212 exhibited up to the maximum allowed by law; and

2213 (ii) incarceration, without suspension of sentence, for a term of not less than 14 days.

2214 (b) Each separate offense under this section committed by a person 18 years [~~of age~~
2215 old or older against a minor 16 years [~~of age~~ old or older, but younger than 18 years [~~of age~~
2216 old, is a class A misdemeanor if the person is less than seven years older than the minor at the
2217 time of the offense.

2218 (c) Each separate offense under this section committed by a person 16 or 17 years [~~of~~
2219 age] old is a class A misdemeanor.

2220 (d) Each separate offense under this section committed by a person younger than 16
2221 years [~~of age~~] old is a class B misdemeanor.

2222 (e) Subsection (2)(a) supersedes Section [~~77-18-1~~] 77-18-105.

2223 (3) (a) Except for a defendant described in Subsection (2)(b), if a defendant 18 years [~~of~~
2224 age] old or older has been previously convicted or adjudicated [~~to be under the jurisdiction of~~
2225 by the juvenile court under this section, each separate subsequent offense is a second degree
2226 felony punishable by:

2227 (i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article
2228 exhibited up to the maximum allowed by law; and

2229 (ii) incarceration, without suspension of sentence, for a term of not less than one year.

2230 (b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years
2231 [~~of age~~] old has been previously convicted or adjudicated [~~to be under the jurisdiction of~~] by
2232 the juvenile court under this section, each separate subsequent offense is a third degree felony.

2233 (c) Subsection (3)(a) supersedes Section [~~77-18-1~~] 77-18-105.

2234 (d) (i) This section does not apply to an Internet service provider, as defined in Section
2235 76-10-1230, a provider of an electronic communications service as defined in 18 U.S.C. Sec.
2236 2510, a telecommunications service, information service, or mobile service as defined in 47
2237 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or
2238 a cable operator as defined in 47 U.S.C. Sec. 522, if:

2239 (A) the distribution of pornographic material by the Internet service provider occurs
2240 only incidentally through the provider's function of:

2241 (I) transmitting or routing data from one person to another person; or

2242 (II) providing a connection between one person and another person;
2243 (B) the provider does not intentionally aid or abet in the distribution of the
2244 pornographic material; and
2245 (C) the provider does not knowingly receive from or through a person who distributes
2246 the pornographic material a fee greater than the fee generally charged by the provider, as a
2247 specific condition for permitting the person to distribute the pornographic material.

2248 (ii) This section does not apply to a hosting company, as defined in Section
2249 76-10-1230, if:

2250 (A) the distribution of pornographic material by the hosting company occurs only
2251 incidentally through the hosting company's function of providing data storage space or data
2252 caching to a person;

2253 (B) the hosting company does not intentionally engage, aid, or abet in the distribution
2254 of the pornographic material; and

2255 (C) the hosting company does not knowingly receive from or through a person who
2256 distributes the pornographic material a fee greater than the fee generally charged by the
2257 provider, as a specific condition for permitting the person to distribute, store, or cache the
2258 pornographic material.

2259 (4) A service provider, as defined in Section 76-10-1230, is not negligent under this
2260 section if the service provider complies with Section 76-10-1231.

2261 (5) A person 18 years [~~of age~~] old or older who knowingly solicits, requests,
2262 commands, encourages, or intentionally aids another person younger than 18 years [~~of age~~] old
2263 to engage in conduct in violation of Subsection (1) is guilty of a third degree felony and is
2264 subject to the penalties under Subsection (2)(a).

2265 Section 40. Section 76-10-1214 is amended to read:

2266 **76-10-1214. Conspiracy -- Punishment.**

2267 (1) (a) A conspiracy of two or more persons to commit any offense proscribed by this
2268 part is a third degree felony punishable for each separate offense by a minimum mandatory
2269 fine of not less than \$1,000 and by imprisonment, without suspension of sentence in any way,

2270 for a term of not less than 60 days.

2271 (b) This subsection supersedes Section [~~77-18-1~~] [77-18-105](#).

2272 (2) (a) If a defendant has already been convicted once under this section, each separate
2273 further offense is a second degree felony punishable by a minimum mandatory fine of not less
2274 than \$5,000 and by imprisonment, without suspension of sentence in any way, for a term of not
2275 less than one year.

2276 (b) This subsection supersedes Section [~~77-18-1~~] [77-18-105](#).

2277 Section 41. Section **76-10-1228** is amended to read:

2278 **76-10-1228. Indecent public displays -- Prohibitions -- Penalty.**

2279 (1) Subject to the affirmative defense in Subsection [76-10-1208](#)(3), a person is guilty
2280 of a class A misdemeanor who willfully or knowingly:

2281 (a) engages in the business of selling, lending, giving away, showing, advertising for
2282 sale, or distributing to a minor or has in the person's possession with intent to engage in that
2283 business or to otherwise offer for sale or commercial distribution to a minor any material with:

2284 (i) a description or depiction of illicit sex or sexual immorality; or

2285 (ii) a nude or partially denuded figure; or

2286 (b) publicly displays at newsstands or any other establishment frequented by minors, or
2287 where the minors are or may be invited as a part of the general public, any motion picture, or
2288 any live, taped, or recorded performance, or any still picture or photograph, or any book, pocket
2289 book, pamphlet, or magazine the cover or content of which:

2290 (i) exploits, is devoted to, or is principally made up of one or more descriptions or
2291 depictions of illicit sex or sexual immorality; or

2292 (ii) consists of one or more pictures of nude or partially denuded figures.

2293 (2) (a) A violation of this section is punishable by:

2294 (i) a minimum mandatory fine of not less than \$500; and

2295 (ii) incarceration, without suspension of sentence in any way, for a term of not less than
2296 30 days.

2297 (b) This section supersedes Section [~~77-18-1~~] [77-18-105](#).

2298 Section 42. Section 77-1-3 is amended to read:

2299 **77-1-3. Definitions.**

2300 For the purpose of this act:

2301 (1) "Criminal action" means the proceedings by which a person is charged, accused,
2302 and brought to trial for a public offense.

2303 (2) "Indictment" means an accusation in writing presented by a grand jury to the
2304 district court charging a person with a public offense.

2305 (3) "Information" means an accusation, in writing, charging a person with a public
2306 offense which is presented, signed, and filed in the office of the clerk where the prosecution is
2307 commenced ~~[pursuant to Section 77-2-1.1]~~ in accordance with Section 77-2-2.2.

2308 (4) "Magistrate" means a justice or judge of a court of record or not of record or a
2309 commissioner of such a court appointed in accordance with Section 78A-5-107, except that the
2310 authority of a court commissioner to act as a magistrate shall be limited by rule of the judicial
2311 council. The judicial council rules shall not exceed constitutional limitations upon the
2312 delegation of judicial authority.

2313 (5) "Risk and needs assessment" means an actuarial tool validated on offenders that
2314 determines:

2315 (a) an individual's risk of reoffending; and

2316 (b) the criminal risk factors that, when addressed, reduce the individual's risk of
2317 reoffending.

2318 Section 43. Section 77-2-2 is amended to read:

2319 **77-2-2. Definitions.**

2320 ~~[For the purpose of this chapter:]~~

2321 ~~[(1) "Screening" means the process used by a prosecuting attorney to terminate
2322 investigative action, proceed with prosecution, move to dismiss a prosecution that has been
2323 commenced, or cause a prosecution to be diverted;]~~

2324 As used in this chapter:

2325 (1) "Commencement of prosecution" means the filing of an information or an

2326 indictment.

2327 (2) "Diversion" means suspending criminal proceedings [~~prior to~~] before conviction on
2328 the condition that a defendant agree to:

2329 (a) participate in a rehabilitation program [~~or make~~];

2330 (b) pay restitution to [~~the~~] a victim; or

2331 (c) fulfill some other condition[~~, and~~].

2332 [~~(3) "Commencement of prosecution" means the filing of an information or an~~
2333 indictment.]

2334 (3) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

2335 (4) "Screening" means the process used by a prosecuting attorney to:

2336 (a) terminate an investigative action;

2337 (b) proceed with prosecution;

2338 (c) move to dismiss a prosecution that has been commenced; or

2339 (d) cause a prosecution to be diverted.

2340 Section 44. Section **77-2-2.1**, which is renumbered from Section 77-2-1 is renumbered
2341 and amended to read:

2342 [~~77-2-1~~]. **77-2-2.1. Authorization to file information.**

2343 [~~Unless~~] Except as otherwise provided by law, no information may be filed charging the
2344 commission of any felony or class A misdemeanor unless authorized by a prosecuting attorney.

2345 Section 45. Section **77-2-2.2**, which is renumbered from Section 77-2-1.1 is
2346 renumbered and amended to read:

2347 [~~77-2-1.1~~]. **77-2-2.2. Signing and filing of information.**

2348 (1) The prosecuting attorney shall sign all informations.

2349 (2) The prosecuting attorney may:

2350 [~~(1)~~] (a) sign the information in the presence of a magistrate; or

2351 [~~(2)~~] (b) present and file the information in the office of the clerk where the
2352 prosecution is commenced upon the signature of the prosecuting attorney.

2353 Section 46. Section **77-2-2.3**, which is renumbered from Section 77-2-1.2 is

2354 renumbered and amended to read:

2355 ~~[77-2-1.2]~~. 77-2-2.3. Reducing the level of an offense.

2356 (1) Notwithstanding any other provision of law, a prosecuting attorney may:

2357 (a) present and file an information charging an individual for an offense under
2358 Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a
2359 classification of the offense at one degree lower than the classification that is provided in
2360 statute if the prosecuting attorney believes that the sentence would be disproportionate to the
2361 offense because there are special circumstances relating to the offense; or

2362 (b) subject to the approval of the court, amend an information, as part of a plea
2363 agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b) through
2364 (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one
2365 degree lower than the classification that is provided in statute.

2366 (2) A court may:

2367 (a) enter a judgment of conviction for an offense filed under Subsection (1) at one
2368 degree lower than classified in statute; and

2369 (b) impose a sentence for the offense filed under Subsection (1) at one degree lower
2370 than classified in statute.

2371 (3) A conviction of an offense at one degree lower than classified in statute under
2372 Subsection (2) does not affect the requirements for registration of the offense under Title 77,
2373 Chapter 41, Sex and Kidnap Offender Registry, or Title 77, Chapter 43, Child Abuse Offender
2374 Registry, if the elements of the offense for which the defendant is convicted are the same as the
2375 elements of an offense described in Section 77-41-102 or 77-43-102.

2376 (4) This section does not preclude an individual from obtaining and being granted an
2377 expungement for the individual's record in accordance with Title 77, Chapter 40, Utah
2378 Expungement Act.

2379 Section 47. Section ~~77-2-5~~ is amended to read:

2380 ~~77-2-5. Diversion agreement -- Negotiation -- Contents.~~

2381 (1) At any time after the ~~[filing of an information or indictment and prior to]~~

2382 commencement of prosecution and before conviction, the prosecuting attorney may, by written
2383 agreement with the defendant, filed with the court, and upon approval of the court, divert a
2384 defendant to a non-criminal diversion program.

2385 (2) A defendant shall be represented by counsel during negotiations for diversion and
2386 at the time of execution of any diversion agreement unless ~~[he shall have]~~ the defendant has
2387 knowingly and intelligently waived ~~[his]~~ the defendant's right to counsel.

2388 (3) The defendant has the right to be represented by counsel at any court hearing
2389 relating to a diversion program.

2390 (4) ~~[Any]~~ (a) A diversion agreement, entered into between ~~[the prosecution and the~~
2391 ~~defense]~~ the prosecuting attorney and the defendant and approved by a magistrate, shall contain
2392 a full, detailed statement of the requirements agreed to by the defendant and the reasons for
2393 diversion.

2394 (b) The diversion agreement described in Subsection (4)(a) shall include an agreement,
2395 by the parties, for a specific amount of restitution that the defendant will pay, unless the
2396 prosecuting attorney certifies that:

2397 (i) the prosecuting attorney has consulted with all victims, including the Utah Office
2398 for Victims of Crime; and

2399 (ii) the defendant does not owe any restitution.

2400 (5) (a) If the court approves a diversion agreement that includes an agreement by the
2401 parties for the amount of restitution that the defendant will pay, the court shall order the
2402 defendant to pay restitution in accordance with the terms of the diversion agreement.

2403 (b) The court shall collect, receive, process, and distribute payments for restitution to
2404 the victim, unless otherwise provided by law or by the diversion agreement.

2405 (6) A decision by a prosecuting attorney not to divert a defendant is not subject to
2406 judicial review.

2407 ~~[(5)]~~ (7) Diversion programs longer than two years shall not be permitted.

2408 ~~[(6)]~~ (8) A diversion agreement shall not be approved unless the defendant, before a
2409 magistrate and in the agreement, knowingly and intelligently waives ~~[his]~~ the defendant's

2410 constitutional right to a speedy trial.

2411 Section 48. Section **77-2a-1** is amended to read:

2412 **77-2a-1. Definitions.**

2413 [~~For the purposes of this chapter:~~]

2414 As used in this chapter:

2415 (1) "Pecuniary damages" means the same as that term is defined in Section
2416 [77-38b-102](#).

2417 [~~(1)~~] (2) "Plea in abeyance" means an order by a court, upon motion of the
2418 [~~prosecution~~] prosecuting attorney and the defendant, accepting a plea of guilty or of no contest
2419 from the defendant but not, at that time, entering judgment of conviction against [~~him~~] the
2420 defendant nor imposing sentence upon [~~him~~] the defendant on condition that [~~he~~] the defendant
2421 comply with specific conditions as set forth in a plea in abeyance agreement.

2422 [~~(2)~~] (3) "Plea in abeyance agreement" means an agreement entered into between the
2423 [~~prosecution~~] prosecuting attorney and the defendant setting forth the specific terms and
2424 conditions upon which, following acceptance of the agreement by the court, a plea may be held
2425 in abeyance.

2426 (4) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

2427 Section 49. Section **77-2a-3** is amended to read:

2428 **77-2a-3. Manner of entry of plea -- Powers of court.**

2429 (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
2430 done in full compliance with [~~the provisions of Rule 11, Utah Rules of Criminal Procedure:~~]
2431 the Utah Rules of Criminal Procedure, Rule 11.

2432 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
2433 agreement may be entered into without a personal appearance before a magistrate.

2434 (2) A plea in abeyance agreement may provide that the court may, upon finding that the
2435 defendant has successfully completed the terms of the agreement:

2436 (a) reduce the degree of the offense and enter judgment of conviction and impose
2437 sentence for a lower degree of offense; or

2438 (b) allow withdrawal of defendant's plea and order the dismissal of the case.

2439 (3) (a) Upon finding that a defendant has successfully completed the terms of a plea in
2440 abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as
2441 provided in the plea in abeyance agreement or as agreed to by all parties.

2442 (b) Upon sentencing a defendant for any lesser offense [~~pursuant to~~] in accordance with
2443 a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the
2444 degree of the offense.

2445 (4) The court may require the Department of Corrections to assist in the administration
2446 of the plea in abeyance agreement as if the defendant were on probation to the court under
2447 Section [~~77-18-1~~] 77-18-105.

2448 (5) The terms of a plea in abeyance agreement may include:

2449 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
2450 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in
2451 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a
2452 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and
2453 which may not exceed in amount the maximum fine and surcharge which could have been
2454 imposed upon conviction and sentencing for the same offense;

2455 [~~(b) an order that the defendant pay restitution to the victims of the defendant's actions~~
2456 ~~as provided in Title 77, Chapter 38a, Crime Victims Restitution Act;~~]

2457 [(~~e~~)] (b) an order that the defendant pay the costs of any remedial or rehabilitative
2458 program required by the terms of the agreement; and

2459 [(~~d~~)] (c) an order that the defendant comply with any other conditions [~~which~~] that
2460 could have been imposed as conditions of probation upon conviction and sentencing for the
2461 same offense.

2462 (6) (a) The terms of a plea in abeyance shall include an order for a specific amount of
2463 restitution that the defendant will pay, as agreed to by the defendant and the prosecuting
2464 attorney, unless the prosecuting attorney certifies that:

2465 (i) the prosecuting attorney has consulted with all victims, including the Utah Office

2466 for Victims of Crime; and

2467 (ii) the defendant does not owe any restitution.

2468 (b) The court shall collect, receive, process, and distribute payments for restitution to
2469 the victim, unless otherwise provided by law or by the plea in abeyance agreement.

2470 (c) If the defendant does not successfully complete the terms of the plea in abeyance,
2471 the court shall enter an order for restitution, in accordance with Title 77, Chapter 38b, Crime
2472 Victims Restitution Act, upon entering a sentence for the defendant.

2473 ~~[(6)]~~ (7) (a) A court may not hold a plea in abeyance without the consent of both the
2474 prosecuting attorney and the defendant.

2475 (b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

2476 ~~[(7)]~~ (8) No plea may be held in abeyance in any case involving a sexual offense
2477 against a victim who is under ~~[the age of 14.]~~ 14 years old.

2478 ~~[(8)]~~ (9) Beginning on July 1, 2008, no plea may be held in abeyance in any case
2479 involving a driving under the influence violation under Section [41-6a-502](#).

2480 Section 50. Section **77-7-5** is amended to read:

2481 **77-7-5. Issuance of summons or warrant -- Time and place arrests may be made**
2482 **-- Contents of warrant or summons -- Responsibility for transporting prisoners -- Court**
2483 **clerk to dispense costs for transportation.**

2484 (1) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance
2485 of the accused only upon finding:

2486 (a) probable cause to believe that the person to be arrested has committed a public
2487 offense; and

2488 (b) under the Utah Rules of Criminal Procedure, and this section that a warrant is
2489 necessary to:

2490 (i) prevent risk of injury to a person or property;

2491 (ii) secure the appearance of the accused; or

2492 (iii) protect the public safety and welfare of the community or an individual.

2493 (2) If the offense charged is:

2494 (a) a felony, the arrest upon a warrant may be made at any time of the day or night; or

2495 (b) a misdemeanor, the arrest upon a warrant can be made at night only if:

2496 (i) the magistrate has endorsed authorization to do so on the warrant;

2497 (ii) the person to be arrested is upon a public highway, in a public place, or in a place

2498 open to or accessible to the public; or

2499 (iii) the person to be arrested is encountered by a peace officer in the regular course of

2500 that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for

2501 arrest.

2502 (3) For the purpose of Subsection (1):

2503 (a) daytime hours are the hours of 6 a.m. to 10 p.m.; and

2504 (b) nighttime hours are the hours after 10 p.m. and before 6 a.m.

2505 (4) (a) If the magistrate determines that the accused must appear in court, the

2506 magistrate shall include in the arrest warrant the name of the law enforcement agency in the

2507 county or municipality with jurisdiction over the offense charged.

2508 (b) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a)

2509 is responsible for providing inter-county transportation of the defendant, if necessary, from the

2510 arresting law enforcement agency to the court site.

2511 (ii) The law enforcement agency named on the warrant may contract with another law

2512 enforcement agency to have a defendant transported.

2513 (c) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a)

2514 as responsible for transporting the defendant shall provide to the court clerk of the court in

2515 which the defendant is tried, an affidavit stating that the defendant was transported, indicating

2516 the law enforcement agency responsible for the transportation, and stating the number of miles

2517 the defendant was transported.

2518 (ii) The court clerk shall:

2519 (A) account for [~~restitution~~] a cost paid under Subsection ~~[76-3-201(5)]~~ for

2520 ~~governmental transportation expenses~~ 76-3-201(4)(b) for government transportation; and

2521 (B) dispense [~~restitution~~] money collected by the court under Subsection (4)(c)(ii)(A)

2522 to the law enforcement agency responsible for the transportation of a convicted defendant.

2523 (5) The law enforcement agency identified by the magistrate under Subsection (4)(a)
2524 shall indicate to the court within 48 hours of the issuance, excluding Saturdays, Sundays, and
2525 legal holidays if a warrant issued [~~pursuant to~~] in accordance with this section is an extradition
2526 warrant.

2527 (6) The law enforcement agency identified by the magistrate under Subsection (4)(a)
2528 shall report any changes to the status of a warrant issued [~~pursuant to~~] in accordance with this
2529 section to the Bureau of Criminal Identification.

2530 Section 51. Section **77-7-21** is amended to read:

2531 **77-7-21. Proceeding on citation -- Voluntary forfeiture of bail -- Parent signature**
2532 **required -- Information, when required.**

2533 (1) (a) A citation filed with the court may, with the consent of the defendant, serve in
2534 lieu of an information to which the defendant may plead guilty or no contest to the charge or
2535 charges listed and be sentenced accordingly.

2536 (b) If provided by the uniform fine schedule described in Section [76-3-301.5](#), an
2537 individual may remit the fine and other penalties without a personal appearance before the
2538 court in any case charging a class B misdemeanor or lower offense, unless the charge is:

2539 (i) a domestic violence offense as defined in Section [77-36-1](#);

2540 (ii) a violation of Section [41-6a-502](#), driving under the influence of alcohol, drugs, or a
2541 combination of both or with specified or unsafe blood alcohol concentration;

2542 (iii) a violation of Section [41-6a-517](#), driving with any measurable controlled substance
2543 in the body;

2544 (iv) a violation of a local ordinance similar to the offenses described in Subsections

2545 (1)(b)(i) through (iii); or

2546 (v) a violation that appears to:

2547 (A) affect a victim, as defined in Section [~~77-38a-102~~] [77-38b-102](#); or

2548 (B) require restitution, as defined in Section [~~77-38a-102~~] [77-38b-102](#).

2549 (c) The remittal of fines and other penalties shall be entered as a conviction and treated

2550 the same as if the accused pleaded no contest.

2551 (d) If the person cited is under 18 years [~~of age~~] old, the court shall promptly mail a
2552 copy or notice of the citation to the address as shown on the citation, to the attention of the
2553 parent or guardian of the defendant.

2554 (2) If the individual pleads not guilty to the offense charged, further proceedings shall
2555 be held in accordance with the Rules of Criminal Procedure and all other applicable provisions
2556 of this code.

2557 Section 52. Section **77-18-101** is enacted to read:

2558 **77-18-101. Title.**

2559 This chapter is known as "The Judgment."

2560 Section 53. Section **77-18-102** is enacted to read:

2561 **77-18-102. Definitions.**

2562 As used in this chapter:

2563 (1) "Assessment" means, except as provided in Section [77-18-104](#), the same as the
2564 term "risk and needs assessment" in Section [77-1-3](#).

2565 (2) "Board" means the Board of Pardons and Parole.

2566 (3) "Civil accounts receivable" means the same as that term is defined in Section
2567 [77-32b-102](#).

2568 (4) "Civil judgment of restitution" means the same as that term is defined in Section
2569 [77-32b-102](#).

2570 (5) "Convicted" means the same as that term is defined in Section [76-3-201](#).

2571 (6) "Criminal accounts receivable" means the same as that term is defined in Section
2572 [77-32b-102](#).

2573 (7) "Default" means the same as that term is defined in Section [77-32b-102](#).

2574 (8) "Delinquent" means the same as that term is defined in Section [77-32b-102](#).

2575 (9) "Department" means the Department of Corrections created in Section [64-13-2](#).

2576 (10) "Payment schedule" means the same as that term is defined in Section
2577 [77-32b-102](#).

2578 (11) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

2579 (12) "Screening" means, except as provided in Section [77-18-104](#), a tool or
2580 questionnaire that is designed to determine whether an individual needs further assessment or
2581 any additional resource or referral for treatment.

2582 (13) "Substance use disorder treatment" means treatment obtained through a substance
2583 use disorder program that is licensed by the Office of Licensing within the Department of
2584 Human Services.

2585 Section 54. Section **77-18-103** is enacted to read:

2586 **77-18-103. Presentence investigation report -- Classification of presentence**
2587 **investigation report -- Evidence or other information at sentencing.**

2588 (1) Before the imposition of a sentence, the court may:

2589 (a) upon agreement of the defendant, continue the date for the imposition of the
2590 sentence for a reasonable period of time for the purpose of obtaining a presentence
2591 investigation report from the department or information from other sources about the
2592 defendant; and

2593 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the
2594 department prepare a presentence investigation report for the defendant.

2595 (2) If a presentence investigation report is required under the standards established by
2596 the department described in Section [77-18-109](#), the presentence investigation report under
2597 Subsection (1) shall include:

2598 (a) any impact statement provided by a victim as described in Subsection
2599 [77-38b-203\(3\)\(c\)](#);

2600 (b) information on restitution as described in Subsection [77-38b-203\(3\)\(a\)](#) and (b);

2601 (c) findings from any screening and any assessment of the defendant conducted under
2602 Section [77-18-104](#);

2603 (d) recommendations for treatment for the defendant; and

2604 (e) the number of days since the commission of the offense that the defendant has spent
2605 in the custody of the jail and the number of days, if any, the defendant was released to a

2606 supervised release program or an alternative incarceration program under Section [17-22-5.5](#).

2607 (3) The department shall provide the presentence investigation report to the defendant's
2608 attorney, or the defendant if the defendant is not represented by counsel, the prosecuting
2609 attorney, and the court for review within three working days before the day on which the
2610 defendant is sentenced.

2611 (4) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is
2612 not resolved by the parties and the department before sentencing:

2613 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing;
2614 and

2615 (B) the court may grant an additional 10 working days after the day on which the
2616 alleged inaccuracy is brought to the court's attention to allow the parties and the department to
2617 resolve the alleged inaccuracy in the presentence investigation report.

2618 (ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the
2619 alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is
2620 an inaccuracy in the presentence investigation report, the court shall:

2621 (A) enter a written finding as to the relevance and accuracy of the challenged portion of
2622 the presentence investigation report; and

2623 (B) provide the written finding to the Division of Adult Probation and Parole.

2624 (b) The Division of Adult Probation and Parole shall attach the written finding to the
2625 presentence investigation report as an addendum.

2626 (c) If a party fails to challenge the accuracy of the presentence investigation report at
2627 the time of sentencing, the matter shall be considered waived.

2628 (5) The contents of the presentence investigation report are protected and not available
2629 except by court order for purposes of sentencing as provided by rule of the Judicial Council or
2630 for use by the department.

2631 (6) (a) A presentence investigation report is classified as protected in accordance with
2632 Title 63G, Chapter 2, Government Records Access and Management Act.

2633 (b) Notwithstanding Sections [63G-2-403](#) and [63G-2-404](#), the State Records Committee

2634 may not order the disclosure of a presentence investigation report.

2635 (7) Except for disclosure at the time of sentencing in accordance with this section, the

2636 department may disclose a presentence investigation only when:

2637 (a) ordered by the court in accordance with Subsection 63G-2-202(7);

2638 (b) requested by a law enforcement agency or other agency approved by the department

2639 for purposes of supervision, confinement, and treatment of a defendant;

2640 (c) requested by the board;

2641 (d) requested by the subject of the presentence investigation report or the subject's

2642 authorized representative;

2643 (e) requested by the victim of the offense discussed in the presentence investigation

2644 report, or the victim's authorized representative, if the disclosure is only information relating

2645 to:

2646 (i) statements or materials provided by the victim;

2647 (ii) the circumstances of the offense, including statements by the defendant; or

2648 (iii) the impact of the offense on the victim or the victim's household; or

2649 (f) requested by a sex offender treatment provider:

2650 (i) who is certified to provide treatment under the certification program established in

2651 Subsection 64-13-25(3);

2652 (ii) who is providing, at the time of the request, sex offender treatment to the offender

2653 who is the subject of the presentence investigation report; and

2654 (iii) who provides written assurance to the department that the report:

2655 (A) is necessary for the treatment of the defendant;

2656 (B) will be used solely for the treatment of the defendant; and

2657 (C) will not be disclosed to an individual or entity other than the defendant.

2658 (8) (a) At the time of sentence, the court shall receive any testimony, evidence, or

2659 information that the defendant or the prosecuting attorney desires to present concerning the

2660 appropriate sentence.

2661 (b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in

2662 open court on record and in the presence of the defendant.

2663 Section 55. Section **77-18-104**, which is renumbered from Section 77-18-1.1 is
2664 renumbered and amended to read:

2665 ~~[77-18-1.1].~~ **77-18-104. Screening, assessment, and treatment.**

2666 (1) As used in this section:

2667 (a) "Assessment" has the same meaning as in Section [41-6a-501](#).

2668 ~~[(b) "Convicted" means:]~~

2669 ~~[(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental~~
2670 ~~illness, or no contest; and]~~

2671 ~~[(ii) conviction of any crime or offense.]~~

2672 ~~[(c)]~~ (b) "Screening" has the same meaning as in Section [41-6a-501](#).

2673 ~~[(d) "Substance use disorder treatment" means treatment obtained through a substance~~
2674 ~~use disorder program that is licensed by the Office of Licensing within the Department of~~
2675 ~~Human Services.]~~

2676 ~~[(2) On or after July 1, 2009, the courts of the judicial districts where the Drug-Related~~
2677 ~~Offenses Reform Act under Section [63M-7-305](#) is implemented shall, in coordination with the~~
2678 ~~local substance abuse authority regarding available resources;]~~

2679 (2) In coordination with the local substance abuse authority regarding available
2680 resources, a court in which the Drug-Related Offenses Reform Act under Section [63M-7-305](#) is
2681 implemented shall order ~~[convicted persons]~~ a convicted defendant, who is determined to be
2682 eligible in accordance with the implementation plan developed by the Utah Substance Use and
2683 Mental Health Advisory Council under Section [63M-7-305](#), to:

2684 (a) participate in a screening ~~[prior to]~~ before sentencing;

2685 (b) participate in an assessment ~~[prior to]~~ before sentencing if the screening indicates
2686 an assessment to be appropriate; and

2687 (c) participate in substance use disorder treatment if:

2688 (i) the assessment indicates treatment to be appropriate;

2689 (ii) the court finds treatment to be appropriate for the convicted ~~[person]~~ defendant;

2690 and

2691 (iii) the court finds the convicted [~~person~~] defendant to be an appropriate candidate for
2692 community-based supervision.

2693 (3) The findings from any screening and any assessment conducted under this section
2694 shall be part of the presentence investigation report submitted to the court [~~before sentencing of~~
2695 ~~the convicted person~~] under Section 77-18-103.

2696 (4) Money appropriated by the Legislature to assist in the funding of the screening,
2697 assessment, substance use disorder treatment, and supervision provided under this section is
2698 not subject to any requirement regarding matching funds from a state or local governmental
2699 entity.

2700 Section 56. Section **77-18-105** is enacted to read:

2701 **77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation --**
2702 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**
2703 **supervision for payments on criminal accounts receivable.**

2704 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in
2705 abeyance agreement, the court may hold the plea in abeyance:

2706 (a) in accordance with Chapter 2a, Pleas in Abeyance; and

2707 (b) under the terms of the plea in abeyance agreement.

2708 (2) If a defendant is convicted, the court:

2709 (a) shall impose a sentence in accordance with Section 76-3-201; and

2710 (b) may suspend the execution of the sentence and place the defendant:

2711 (i) on probation under the supervision of the department, except as provided in

2712 Subsection (5);

2713 (ii) on probation under the supervision of an agency of a local government or a private
2714 organization; or

2715 (iii) on court probation under the jurisdiction of the sentencing court.

2716 (3) (a) The legal custody of all probationers under the supervision of the department is
2717 with the department.

2718 (b) The legal custody of all probationers under the jurisdiction of the sentencing court
2719 is vested as ordered by the court.

2720 (c) The court has continuing jurisdiction over all probationers.

2721 (4) (a) Court probation may include an administrative level of services, including
2722 notification to the sentencing court of scheduled periodic reviews of the probationer's
2723 compliance with conditions.

2724 (b) Supervised probation services provided by the department, an agency of a local
2725 government, or a private organization shall specifically address the defendant's risk of
2726 reoffending as identified by a screening or an assessment.

2727 (5) A court may not order the department to supervise the probation of an individual
2728 who is convicted of a class B or C misdemeanor or an infraction.

2729 (6) (a) If a defendant is placed on probation, the court may order the defendant as a
2730 condition of the defendant's probation:

2731 (i) to provide for the support of persons for whose support the defendant is legally
2732 liable;

2733 (ii) to participate in available treatment programs, including any treatment program in
2734 which the defendant is currently participating if the program is acceptable to the court;

2735 (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and
2736 Mental Health for treatment at the Utah State Hospital in accordance with Section [77-18-106](#);

2737 (iv) if the defendant is on probation for a felony offense, to serve a period of time as an
2738 initial condition of probation that does not exceed one year in a county jail designated by the
2739 department, after considering any recommendation by the court as to which jail the court finds
2740 most appropriate;

2741 (v) to serve a term of home confinement in accordance with Section [77-18-107](#);

2742 (vi) to participate in compensatory service programs, including the compensatory
2743 service program described in Section [76-6-107.1](#);

2744 (vii) to pay for the costs of investigation, probation, or treatment services;

2745 (viii) to pay a criminal accounts receivable established for the defendant under Section

2746 [77-32b-103](#); or

2747 (ix) to comply with other terms and conditions the court considers appropriate to
2748 ensure public safety or increase a defendant's likelihood of success on probation.

2749 (b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a
2750 defendant to include a period of time that is served in a county jail immediately before the
2751 termination of probation as long as that period of time does not exceed one year.

2752 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation
2753 violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply
2754 to the period of time that the court orders the defendant to serve in a county jail under this
2755 Subsection (6)(b)(ii).

2756 (7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on
2757 probation after December 31, 2018:

2758 (i) may not exceed the individual's maximum sentence;

2759 (ii) shall be for a period of time that is in accordance with the supervision length
2760 guidelines established by the Utah Sentencing Commission under Section [63M-7-404](#), to the
2761 extent the guidelines are consistent with the requirements of the law; and

2762 (iii) shall be terminated in accordance with the supervision length guidelines
2763 established by the Utah Sentencing Commission under Section [63M-7-404](#), to the extent the
2764 guidelines are consistent with the requirements of the law.

2765 (b) Probation of an individual placed on probation after December 31, 2018, whose
2766 maximum sentence is one year or less, may not exceed 36 months.

2767 (c) Probation of an individual placed on probation on or after October 1, 2015, but
2768 before January 1, 2019, may be terminated at any time at the discretion of the court or upon
2769 completion without violation of 36 months probation in felony or class A misdemeanor cases,
2770 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance
2771 with Section [64-13-21](#) regarding earned credits.

2772 (d) This Subsection (7) does not apply to the probation of an individual convicted of an
2773 offense for criminal nonsupport under Section [76-7-201](#).

2774 (8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal
2775 accounts receivable for the defendant upon termination of the probation period for the
2776 defendant under Subsection (7), the court may require the defendant to continue to make
2777 payments towards the criminal accounts receivable in accordance with the payment schedule
2778 established by the court under Section [77-32b-103](#).

2779 (b) A court may not require the defendant to make payments as described in Subsection
2780 (8)(a) beyond the expiration of the defendant's sentence.

2781 (c) If the court requires a defendant to continue to pay in accordance with the payment
2782 schedule for the criminal accounts receivable under this Subsection (8) and the defendant
2783 defaults on the criminal accounts receivable, the court shall proceed with an order for a civil
2784 judgment of restitution and a civil accounts receivable for the defendant as described in Section
2785 [77-18-114](#).

2786 (d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's
2787 own motion, the court may require a defendant to show cause as to why the defendant's failure
2788 to pay in accordance with the payment schedule should not be treated as contempt of court.

2789 (ii) A court may hold a defendant in contempt for failure to make payments for a
2790 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

2791 (e) This Subsection (8) does not apply to the probation of an individual convicted of an
2792 offense for criminal nonsupport under Section [76-7-201](#).

2793 Section 57. Section **77-18-106** is enacted to read:

2794 **77-18-106. Treatment at the Utah State Hospital -- Condition of probation or stay**
2795 **of sentence.**

2796 The court may order as a condition of probation, or a stay of sentence, that the
2797 defendant be voluntarily admitted to the custody of the Division of Substance Abuse and
2798 Mental Health for treatment at the Utah State Hospital only if the superintendent of the Utah
2799 State Hospital, or the superintendent's designee, certifies to the court that:

2800 (1) the defendant is appropriate for, and can benefit from, treatment at the Utah State
2801 Hospital;

2802 (2) there is space at the Utah State Hospital for treatment of the defendant; and
2803 (3) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for
2804 treatment over the defendant.

2805 Section 58. Section 77-18-107 is enacted to read:

2806 **77-18-107. Home confinement -- Electronic monitoring for home confinement.**

2807 (1) The court may order home confinement as a condition of probation under the
2808 supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

2809 (2) The department shall establish procedures and standards for home confinement for
2810 all defendants supervised by the department for home confinement.

2811 (3) If the court places the defendant on probation and orders the defendant to
2812 participate in home confinement under Subsection (1), the court may order the defendant to
2813 participate in home confinement through the use of electronic monitoring until further order of
2814 the court.

2815 (4) The electronic monitoring of a defendant shall alert the department and the
2816 appropriate law enforcement agency of the defendant's whereabouts.

2817 (5) An electronic monitoring device shall be used under conditions that require:

2818 (a) the defendant to wear an electronic monitoring device at all times; and

2819 (b) the device be placed in the home of the defendant to monitor the defendant's
2820 compliance with the court's order.

2821 (6) If a court orders a defendant to participate in home confinement through electronic
2822 monitoring as a condition of probation under Subsection (3), the court shall:

2823 (a) place the defendant on probation under the supervision of the department;

2824 (b) order the department to place an electronic monitoring device on the defendant and
2825 install electronic monitoring equipment in the residence of the defendant; and

2826 (c) order the defendant to pay the costs associated with home confinement to the
2827 department or the program provider.

2828 (7) The department shall pay the costs of home confinement through electronic
2829 monitoring only for an individual who is determined to be indigent by the court.

2830 (8) The department may provide the electronic monitoring described in this section
2831 directly or by contract with a private provider.

2832 Section 59. Section **77-18-108** is enacted to read:

2833 **77-18-108. Termination, revocation, modification, or extension of probation --**
2834 **Violation of probation -- Hearing on violation.**

2835 (1) (a) The department shall notify the court and the prosecuting attorney, in writing:

2836 (i) when the department is requesting termination of supervision for a defendant; or

2837 (ii) before a defendant's supervision will be terminated by law.

2838 (b) The notification under this Subsection (1) shall include a probation progress report.

2839 (c) If a defendant's probation is being terminated, and the defendant's criminal accounts

2840 receivable has an unpaid balance or there is any outstanding debt with the department, the

2841 department shall notify the Office of State Debt Collection that the defendant's criminal

2842 accounts receivable has an unpaid balance or there is an outstanding debt with the department.

2843 (2) (a) The court may modify the defendant's probation in accordance with the

2844 supervision length guidelines and the graduated sanctions and incentives developed by the Utah

2845 Sentencing Commission under Section [63M-7-404](#).

2846 (b) The court may not:

2847 (i) extend the length of a defendant's probation, except upon:

2848 (A) waiver of a hearing by the defendant; or

2849 (B) a hearing and a finding by the court that the defendant has violated the terms of

2850 probation;

2851 (ii) revoke a defendant's probation, except upon a hearing and a finding by the court

2852 that the terms of probation have been violated; or

2853 (iii) terminate a defendant's probation before expiration of the probation period until

2854 the court enters a finding of whether the defendant owes restitution under Section [77-38b-205](#).

2855 (3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in

2856 substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act,

2857 alleging with particularity facts asserted to constitute violation of the terms of a defendant's

2858 probation, the court shall determine if the affidavit or unsworn written declaration establishes
2859 probable cause to believe that revocation, modification, or extension of the defendant's
2860 probation is justified.

2861 (b) (i) If the court determines there is probable cause, the court shall order that the
2862 defendant be served with:

2863 (A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written
2864 declaration; and

2865 (B) an order to show cause as to why the defendant's probation should not be revoked,
2866 modified, or extended.

2867 (ii) The order under Subsection (3)(b)(i)(B) shall:

2868 (A) be served upon the defendant at least five days before the day on which the hearing
2869 is held;

2870 (B) specify the time and place of the hearing; and

2871 (C) inform the defendant of the right to be represented by counsel at the hearing, the
2872 right to have counsel appointed if the defendant is indigent, and the right to present evidence at
2873 the hearing.

2874 (iii) The defendant shall show good cause for a continuance of the hearing.

2875 (c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or
2876 unsworn written declaration.

2877 (d) (i) If the defendant denies the allegations of the affidavit or unsworn written
2878 declaration, the prosecuting attorney shall present evidence on the allegations.

2879 (ii) If the affidavit, or unsworn written declaration, alleges that a defendant is
2880 delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall
2881 present evidence to establish, by a preponderance of the evidence, that the defendant:

2882 (A) was aware of the defendant's obligation to pay the balance of the criminal accounts
2883 receivable;

2884 (B) failed to pay on the balance of the criminal accounts receivable as ordered by the
2885 court; and

2886 (C) had the ability to make a payment on the balance of the criminal accounts
2887 receivable if the defendant opposes an order to show cause, in writing, and presents evidence
2888 that the defendant was unable to make a payment on the balance of the criminal accounts
2889 receivable.

2890 (e) The persons who have given adverse information on which the allegations are
2891 based shall be presented as witnesses subject to questioning by the defendant, unless the court
2892 for good cause otherwise orders.

2893 (f) At the hearing, the defendant may:

2894 (i) call witnesses;

2895 (ii) appear and speak in the defendant's own behalf; and

2896 (iii) present evidence.

2897 (g) (i) After the hearing, the court shall make findings of fact.

2898 (ii) Upon a finding that the defendant violated the terms of the defendant's probation,
2899 the court may order the defendant's probation terminated, revoked, modified, continued, or
2900 reinstated for all or a portion of the original term of probation.

2901 (4) (a) (i) Except as provided in Subsection [77-18-105\(7\)](#), the court may not require a
2902 defendant to remain on probation for a period of time that exceeds the length of the defendant's
2903 maximum sentence.

2904 (ii) Except as provided in Subsection [77-18-105\(7\)](#), if a defendant's probation is
2905 revoked and later reinstated, the total time of all periods of probation that the defendant serves,
2906 in relation to the same sentence, may not exceed the defendant's maximum sentence.

2907 (b) If a period of incarceration is imposed for a violation of the defendant's probation,
2908 the defendant shall be sentenced within the guidelines established by the Utah Sentencing
2909 Commission in accordance with Subsection [63M-7-404\(4\)](#), unless the court determines that:

2910 (i) the defendant needs substance abuse or mental health treatment, as determined by a
2911 screening and an assessment, that warrants treatment services that are immediately available in
2912 the community; or

2913 (ii) the sentence previously imposed shall be executed.

2914 (c) If the defendant had, before the imposition of a term of incarceration or the
2915 execution of the previously imposed sentence under this section, served time in jail as a term of
2916 probation or due to a violation of probation, the time that the defendant served in jail
2917 constitutes service of time toward the sentence previously imposed.

2918 (5) (a) Any time served by a defendant:

2919 (i) outside of confinement after having been charged with a probation violation, and
2920 before a hearing to revoke probation, does not constitute service of time toward the total
2921 probation term, unless the defendant is exonerated at a hearing to revoke the defendant's
2922 probation;

2923 (ii) in confinement awaiting a hearing or a decision concerning revocation of the
2924 defendant's probation does not constitute service of time toward the total probation term, unless
2925 the defendant is exonerated at the hearing to revoke probation; or

2926 (iii) in confinement awaiting a hearing or a decision concerning revocation of the
2927 defendant's probation constitutes service of time toward a term of incarceration imposed as a
2928 result of the revocation of probation or a graduated sanction imposed under the guidelines
2929 established by the Utah Sentencing Commission in accordance with Section [63M-7-404](#).

2930 (b) The running of the probation period is tolled upon:

2931 (i) the filing of a report with the court alleging a violation of the terms of the
2932 defendant's probation; or

2933 (ii) the issuance of an order or a warrant under Subsection (3).

2934 Section 60. Section **77-18-109** is enacted to read:

2935 **77-18-109. Standards for supervision and presentence investigation.**

2936 (1) The department shall establish supervision and presentence investigation standards
2937 for all individuals referred to the department based on:

2938 (a) the type of offense;

2939 (b) the results of a screening and an assessment;

2940 (c) the demand for services;

2941 (d) the availability of agency resources;

2942 (e) public safety; and

2943 (f) other criteria established by the department to determine what level of services shall
2944 be provided.

2945 (2) The department shall submit proposed supervision and presentence investigation
2946 standards annually to the Judicial Council and the board for review and comment before the
2947 department adopts the standards.

2948 (3) The Judicial Council and the department shall establish procedures to implement
2949 the supervision and presentence investigation standards.

2950 (4) The Judicial Council and the department shall annually consider modifications to
2951 the standards based upon criteria in Subsection (1) and other criteria as the Judicial Council
2952 and the department consider appropriate.

2953 (5) The Judicial Council and the department shall:

2954 (a) annually prepare an impact report; and

2955 (b) submit the impact report to the appropriate legislative appropriations
2956 subcommittee.

2957 Section 61. Section **77-18-110**, which is renumbered from Section 77-18-3 is
2958 renumbered and amended to read:

2959 ~~[77-18-3].~~ **77-18-110. Disposition of fines.**

2960 ~~[Fines]~~ A fine imposed by the district court shall be paid ~~[as provided in]~~ in accordance
2961 with Section 78A-5-110.

2962 Section 62. Section **77-18-111**, which is renumbered from Section 77-18-4 is
2963 renumbered and amended to read:

2964 ~~[77-18-4].~~ **77-18-111. Sentence -- Term -- Construction.**

2965 (1) ~~[Whenever a person]~~ If an individual is convicted of a crime and the judgment
2966 provides for a commitment to the state prison, the court shall not fix a definite term of
2967 imprisonment unless otherwise provided by law.

2968 (2) The sentence and judgment of imprisonment shall be for an indeterminate term of
2969 not less than the minimum and not to exceed the maximum term provided by law for the

2970 particular crime.

2971 (3) Except as otherwise expressly provided by law, every sentence, regardless of [its]
2972 the sentence's form or terms, which purports to be for a shorter or different period of time, shall
2973 be construed to be a sentence for the term between the minimum and maximum periods of time
2974 provided by law and shall continue until the maximum period has been reached unless sooner
2975 terminated or commuted by authority of the [~~Board of Pardons and Parole~~] board.

2976 Section 63. Section **77-18-112**, which is renumbered from Section 77-18-5 is
2977 renumbered and amended to read:

2978 ~~[77-18-5].~~ **77-18-112. Reports by courts and prosecuting attorneys to Board of**
2979 **Pardons and Parole.**

2980 In cases where an indeterminate sentence is imposed, the [judge] court and prosecuting
2981 attorney may, within 30 days, mail a statement to the [~~Board of Pardons and Parole~~] board
2982 setting forth the term for which the prisoner ought to be imprisoned together with any
2983 information which might aid the board in passing on the application for termination or
2984 commutation of the sentence or for parole or pardon.

2985 Section 64. Section **77-18-113**, which is renumbered from Section 77-18-5.5 is
2986 renumbered and amended to read:

2987 ~~[77-18-5.5].~~ **77-18-113. Judgment of death -- Method is lethal injection --**
2988 **Exceptions for use of firing squad.**

2989 (1) (a) When a defendant is convicted of a capital felony and the judgment of death has
2990 been imposed, lethal intravenous injection is the method of execution.

2991 (b) Subsection (1)(a) applies to any defendant sentenced to death on or after May 3,
2992 2004, except under Subsections (2), (3), and (4).

2993 (2) (a) If a court holds that a defendant has a right to be executed by a firing squad, the
2994 method of execution for that defendant shall be a firing squad.

2995 (b) This Subsection (2) applies to any defendant whose right to be executed by a firing
2996 squad is preserved by that judgment.

2997 (3) (a) If a court holds that execution by lethal injection is unconstitutional on its face,

2998 the method of execution shall be a firing squad.

2999 (b) If a court holds that execution by lethal injection is unconstitutional as applied, the
3000 method of execution for that defendant shall be a firing squad.

3001 (4) The method of execution for the defendant is the firing squad if the sentencing
3002 court determines the state is unable to lawfully obtain the substance or substances necessary to
3003 conduct an execution by lethal intravenous injection 30 or more days [~~prior to~~] before the date
3004 specified in the warrant issued upon a judgment of death under Section 77-19-6.

3005 Section 65. Section 77-18-114 is enacted to read:

3006 **77-18-114. Unpaid balance at termination of sentence -- Past due account -- Notice**
3007 **-- Account or judgment paid in full -- Effect of civil accounts receivable and civil**
3008 **judgment of restitution.**

3009 (1) When a defendant's sentence is terminated by law or by the decision of the court or
3010 the board:

3011 (a) the board shall provide an accounting of the unpaid balance of the defendant's
3012 criminal accounts receivable to the court if the defendant was on parole or incarcerated at the
3013 time of termination; and

3014 (b) within 90 days after the day on which a defendant's sentence is terminated, the
3015 court shall:

3016 (i) enter an order for a civil accounts receivable and a civil judgment of restitution for a
3017 defendant on the civil judgment docket;

3018 (ii) transfer the responsibility of collecting the civil accounts receivable and the civil
3019 judgment of restitution to the Office of State Debt Collection; and

3020 (iii) identify in the order under this Subsection (1):

3021 (A) the Office of State Debt Collection as a judgment creditor for the civil accounts
3022 receivable and the civil judgment of restitution; and

3023 (B) the victim as a judgment creditor for the civil judgment of restitution.

3024 (2) If a criminal accounts receivable for the defendant is more than 90 days past due
3025 and the court has ordered that a defendant does not owe restitution to any victim, or the time

3026 period in Subsection 77-38b-205(5) has passed and the court has not ordered restitution, the
3027 court may:

3028 (a) enter an order for a civil accounts receivable for the defendant on the civil judgment
3029 docket;

3030 (b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as
3031 a judgment creditor for the civil accounts receivable; and

3032 (c) transfer the responsibility of collecting the civil accounts receivable to the Office of
3033 State Debt Collection.

3034 (3) An order for a criminal accounts receivable is no longer in effect after the court
3035 enters an order for a civil accounts receivable or a civil judgment of restitution under
3036 Subsection (1) or (2).

3037 (4) The court shall provide notice to the Office of State Debt Collection and the
3038 prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the
3039 civil judgment of restitution.

3040 (5) The Office of State Debt Collection shall:

3041 (a) notify the court when a civil judgment of restitution or a civil accounts receivable is
3042 satisfied; and

3043 (b) provide the court with an accounting of any distribution made by the Office of State
3044 Debt Collection for the civil accounts receivable and the civil judgment of restitution.

3045 (6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil
3046 accounts receivable on the civil judgment docket, or when restitution is recorded as an order
3047 for a civil judgment of restitution on the civil judgment docket, the order:

3048 (a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

3049 (b) may be collected by any means authorized by law for the collection of a civil
3050 judgment.

3051 (7) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of
3052 restitution are not subject to the civil statutes of limitation and expire only upon payment in
3053 full.

3054 (8) (a) If a defendant asserts that a payment was made to a victim or third party for a
3055 civil judgment of restitution, or enters into any other transaction that does not involve the
3056 Office of State Debt Collection, and the defendant asserts that the payment results in a credit
3057 towards the civil judgment of restitution for the defendant:

3058 (i) the defendant shall provide notice to the Office of State Debt Collection and the
3059 prosecuting attorney within 30 days after the day on which the payment or other transaction is
3060 made; and

3061 (ii) the payment may only be credited towards the principal of the civil judgment of
3062 restitution and does not affect any other amount owed to the Office of State Debt Collection
3063 under Section [63A-3-502](#).

3064 (b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party
3065 from providing notice of a payment towards a civil judgment of restitution to the Office of
3066 State Debt Collection.

3067 Section 66. Section **77-18-115**, which is renumbered from Section 77-18-6.5 is
3068 renumbered and amended to read:

3069 **[77-18-6.5]. 77-18-115. Liability of rescued person for costs of emergency**
3070 **response.**

3071 (1) Any person who violates Section [76-6-206.1](#) and whose conduct required
3072 emergency care, rescue, assistance, or recovery services at the scene of an abandoned or
3073 inactive mine may be charged with the expenses incurred in meeting the emergency.

3074 (2) (a) The court's order shall be a judgment ~~[which]~~ that orders the payment of
3075 reimbursement to any public agency or private body that incurred the expenses.

3076 (b) The judgment shall constitute a lien when recorded in the judgment docket and
3077 shall have the same effect and is subject to the same rules as a judgment for money in a civil
3078 action.

3079 (3) The liability imposed under this section is in addition to and not in limitation of any
3080 other liability that may be imposed.

3081 Section 67. Section **77-18-116**, which is renumbered from Section 77-18-7 is

3082 renumbered and amended to read:

3083 ~~[77-18-7]~~. **77-18-116. Costs imposed on defendant -- Restrictions.**

3084 Unless specifically authorized by statute, a defendant shall not be required to pay court
3085 costs in a criminal case [~~either as~~] as:

3086 (1) a part of a sentence; or [as]

3087 (2) a condition of probation or dismissal.

3088 Section 68. Section ~~77-18-117~~, which is renumbered from Section 77-18-8 is
3089 renumbered and amended to read:

3090 ~~[77-18-8]~~. **77-18-117. Fine not paid -- Commitment.**

3091 (1) When a defendant is sentenced to pay a fine in addition to a jail or a prison sentence
3092 and the judgment is that the jail or prison sentence be suspended upon payment of the fine, the
3093 service of the jail or prison sentence shall satisfy the judgment.

3094 (2) If a defendant fails to pay the fine and [thereafter] the court finds that the defendant
3095 failed to make a good faith effort to pay the fine, the court may, after a hearing, order the
3096 execution of the suspended jail or prison sentence.

3097 (3) If a defendant is sentenced to pay a fine only, or is sentenced to jail or prison and a
3098 fine, with neither suspended, [~~he shall not~~] the defendant may not later be committed to jail for
3099 failure to pay the fine.

3100 Section 69. Section ~~77-18-118~~ is enacted to read:

3101 **77-18-118. Continuing jurisdiction of a sentencing court.**

3102 (1) A sentencing court shall retain jurisdiction over a defendant's criminal case:

3103 (a) if the defendant is on probation as described in Subsection [77-18-105\(3\)\(c\)](#);

3104 (b) if the defendant is on probation and the probation period has terminated under

3105 Subsection [77-18-105\(7\)](#), to require the defendant to continue to make payments towards a
3106 criminal accounts receivable until the defendant's sentence expires;

3107 (c) within the time periods described in Subsection [77-38b-205\(5\)](#), to enter or modify
3108 an order for a criminal accounts receivable in accordance with Section [77-32b-103](#);

3109 (d) within the time periods described in Subsection [77-38b-205\(5\)](#), to enter or modify

3110 an order for restitution in accordance with Section [77-38b-205](#);

3111 (e) until a defendant's sentence is terminated, to correct an error for a criminal accounts
3112 receivable in accordance with Subsection [77-32b-105\(1\)\(a\)](#);

3113 (f) until a defendant's sentence is terminated, to modify a payment schedule for a
3114 criminal accounts receivable in accordance with Subsection [77-32b-105\(1\)\(b\)](#);

3115 (g) if a defendant files a petition for remittance under Subsection [77-32b-105\(1\)\(c\)](#)
3116 before the defendant's sentence is terminated, for 90 days from the day on which the petition is
3117 filed to determine whether to remit, in whole or in part, the defendant's criminal accounts
3118 receivable;

3119 (h) if a defendant files a petition for remittance under Subsection [77-32b-106\(1\)](#) within
3120 90 days from the day on which the defendant's sentence is terminated, to determine whether to
3121 remit, in whole or in part, the defendant's criminal accounts receivable; and

3122 (i) to enter an order for a civil accounts receivable and a civil judgment of restitution in
3123 accordance with Section [77-18-114](#).

3124 (2) This section does not prevent a court from exercising jurisdiction over:

3125 (a) a contempt proceeding for a defendant under Title 78B, Chapter 6, Part 3,
3126 Contempt; or

3127 (b) enforcement of a civil accounts receivable or a civil judgment of restitution.

3128 Section 70. Section **77-19-10** is amended to read:

3129 **77-19-10. Judgment of death -- Location and procedures for execution.**

3130 (1) The executive director of the Department of Corrections or a designee shall ensure
3131 that the method of judgment of death specified in the warrant or as required under Section
3132 [~~77-18-5.5~~] [77-18-113](#) is carried out at a secure correctional facility operated by the department
3133 and at an hour determined by the department on the date specified in the warrant.

3134 (2) When the judgment of death is to be carried out by lethal intravenous injection, the
3135 executive director of the department or a designee shall select two or more persons trained in
3136 accordance with accepted medical practices to administer intravenous injections, who shall
3137 each administer a continuous intravenous injection, one of which shall be of a lethal quantity

3138 of:

3139 (a) sodium thiopental; or

3140 (b) other equally or more effective substance sufficient to cause death.

3141 (3) If the judgment of death is to be carried out by firing squad under Subsection

3142 ~~[77-18-5.5]~~ 77-18-113(2), (3), or (4) the executive director of the department or a designee

3143 shall select a five-person firing squad of peace officers.

3144 (4) Compensation for persons administering intravenous injections and for members of

3145 a firing squad under Subsection ~~[77-18-5.5]~~ 77-18-113(2), (3), or (4) shall be in an amount

3146 determined by the director of the Division of Finance.

3147 (5) Death under this section shall be certified by a physician.

3148 (6) The department shall adopt and enforce rules governing procedures for the

3149 execution of judgments of death.

3150 Section 71. Section ~~77-20-4~~ is amended to read:

3151 **77-20-4. Bail to be posted in cash, by credit or debit card, or by written**

3152 **undertaking -- Specific monetary bail methods.**

3153 (1) (a) Except as provided in Subsection (2), the judge or magistrate shall set bail at a
3154 single amount per case or charge.

3155 (b) Subject to Subsection (2), a defendant may choose to post the amount described in
3156 Subsection (1)(a) by any of the following methods:

3157 (i) in cash;

3158 (ii) by written undertaking with sureties;

3159 (iii) by written undertaking without sureties, at the discretion of the judge or

3160 magistrate; or

3161 (iv) by credit or debit card, at the discretion of the judge or bail commissioner.

3162 (2) A judge or magistrate may limit a defendant to a specific method of posting

3163 monetary bail described in Subsection (1)(b)(i), (ii), (iii), or (iv):

3164 (a) if, after charges are filed, the defendant fails to appear in the case on a bond and the

3165 case involves a violent offense;

3166 (b) in order to allow the defendant to voluntarily forfeit monetary bail in accordance
3167 with Section [77-7-21](#) and the offense with which the defendant is charged is listed in the shared
3168 master offense table as one for which an appearance is not mandatory;

3169 (c) if the defendant has failed to respond to a citation or summons and the offense with
3170 which the defendant is charged is listed in the shared master offense table as one for which an
3171 appearance is not mandatory;

3172 (d) if a warrant is issued for the defendant solely for failure to pay a [~~criminal judgment~~
3173 ~~account receivable, as defined in Section [77-32a-101](#)]~~ criminal accounts receivable, as defined
3174 in Section [77-32b-102](#), and the defendant's monetary bail is limited to the amount owed; or

3175 (e) if a court has entered a judgment of bond forfeiture under Section [77-20b-104](#) in
3176 any case involving the defendant.

3177 (3) Monetary bail may not be accepted without receiving in writing at the time the
3178 monetary bail is posted the current mailing address, telephone number, and email address of
3179 the surety.

3180 (4) Monetary bail paid by debit or credit card, less the fee charged by the financial
3181 institution, shall be tendered to the courts.

3182 (5) Monetary bail refunded by the court may be refunded by credit to the debit or credit
3183 card, or cash. The amount refunded shall be the full amount received by the court under
3184 Subsection (4), which may be less than the full amount of the monetary bail set by the court.

3185 (6) Before refunding monetary bail that is posted by the defendant in cash, by credit
3186 card, or by debit card, the court may apply the amount posted toward [~~accounts receivable, as~~
3187 ~~defined in Section [77-32a-101](#)]~~ a criminal accounts receivable, as defined in Section
3188 [77-32b-102](#), that [are] is owed by the defendant in the priority set forth in Section [~~[77-38a-404](#)~~]
3189 [77-38b-304](#).

3190 Section 72. Section **77-20b-101** is amended to read:

3191 **77-20b-101. Entry of nonappearance -- Notice to surety -- Release of surety on**
3192 **failure of timely notice.**

3193 (1) If a defendant who has posted bail fails to appear before the appropriate court as

3194 required, the court shall within 30 days of the failure to appear issue a bench warrant that
3195 includes the original case number. The court shall also direct that the surety or surety insurer
3196 be given notice of the nonappearance. The clerk of the court shall:

3197 (a) email notice of nonappearance to the surety or surety insurer at the email address
3198 provided on the bond;

3199 (b) email a copy of the notice sent under Subsection (1)(a) to the prosecutor's office;
3200 and

3201 (c) ensure that the name, address, business email address, and telephone number of the
3202 surety, its agent, or surety insurer as listed on the bond is stated on the bench warrant.

3203 (2) The prosecutor may email notice of nonappearance to the address of the surety or
3204 surety insurer as listed on the bond within 37 days after the date of the defendant's failure to
3205 appear.

3206 (3) If notice of nonappearance is not emailed to a surety or surety insurer as listed on
3207 the bond, other than the defendant, in accordance with Subsection (1) or (2), the surety or
3208 surety insurer and its bond producer are relieved of further obligation under the bond if the
3209 surety or surety insurer have listed their current name and email addresses on the bond in the
3210 court's file.

3211 (4) (a) (i) If a defendant appears in court within 30 days after a missed, scheduled court
3212 appearance, the court may reinstate the bond without further notice to the surety or surety
3213 insurer.

3214 (ii) If the defendant, while in custody, appears on the case for which the bond was
3215 posted, the court may not reinstate the bond without the consent of the bond company.

3216 (b) If a defendant fails to appear within 30 days after a scheduled court appearance, the
3217 court may not reinstate the bond without the consent of the surety or surety insurer.

3218 (c) If the defendant is arrested and booked into a county jail booking facility pursuant
3219 to a warrant for failure to appear on the original charges and the court is notified of the arrest,
3220 or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of
3221 judgment of forfeiture, the court shall exonerate the bond.

3222 (d) Unless the court makes a finding of good cause why the bond should not be
3223 exonerated, [it] the court shall exonerate the bond if:

3224 (i) the surety or surety insurer has delivered the defendant to the county jail booking
3225 facility in the county where the original charge or charges are pending;

3226 (ii) the defendant has been released on a bond secured from a subsequent surety or
3227 surety insurer for the original charge and the failure to appear;

3228 (iii) after an arrest, the defendant has escaped from jail or has been released on the
3229 defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail
3230 capacity, or by a sheriff's release under Section [17-22-5.5](#);

3231 (iv) the surety or surety insurer has transported or agreed to pay for the transportation
3232 of the defendant from a location outside of the county back to the county where the original
3233 charge is pending, and the payment is in an amount equal to [~~government transportation~~
3234 ~~expenses listed in Section [76-3-201](#)]~~ the cost of government transportation under Section
3235 [76-3-201](#); or

3236 (v) the surety or surety insurer demonstrates by a preponderance of the evidence that:

3237 (A) at the time the surety or surety insurer issued the bond, it had made reasonable
3238 efforts to determine that the defendant was legally present in the United States;

3239 (B) a reasonable person would have concluded, based on the surety's or surety insurer's
3240 determination, that the defendant was legally present in the United States; and

3241 (C) the surety or surety insurer has failed to bring the defendant before the court
3242 because the defendant is in federal custody or has been deported.

3243 (e) Under circumstances not otherwise provided for in this section, the court may
3244 exonerate the bond if it finds that the prosecutor has been given reasonable notice of a surety's
3245 or surety insurer's motion and there is good cause for the bond to be exonerated.

3246 (f) If a surety's or surety insurer's bond has been exonerated under this section and the
3247 surety or surety insurer remains liable for the cost of transportation of the defendant, the surety
3248 or surety insurer may take custody of the defendant for the purpose of transporting the
3249 defendant to the jurisdiction where the charge is pending.

3250 Section 73. Section ~~77-27-1~~ is amended to read:

3251 **77-27-1. Definitions.**

3252 As used in this chapter:

3253 (1) "Appearance" means any opportunity to address the board, a board member, a
3254 panel, or hearing officer, including an interview.

3255 (2) "Board" means the Board of Pardons and Parole.

3256 (3) (a) "Case action plan" means a document developed by the Department of
3257 Corrections that identifies the program priorities for the treatment of the offender~~[-including]~~.

3258 (b) "Case action plan" includes the criminal risk factors as determined by a risk and
3259 needs assessment conducted by the department.

3260 (4) "Commission" means the State Commission on Criminal and Juvenile Justice
3261 created in Section 63M-7-201.

3262 (5) "Commutation" is the change from a greater to a lesser punishment after
3263 conviction.

3264 (6) "Criminal accounts receivable" means the same as that term is defined in Section
3265 77-32b-102.

3266 ~~[(6)]~~ (7) "Criminal risk factors" means a person's characteristics and behaviors that:

3267 (a) affect that person's risk of engaging in criminal behavior; and

3268 (b) are diminished when addressed by effective treatment, supervision, and other
3269 support resources resulting in reduced risk of criminal behavior.

3270 ~~[(7)]~~ (8) "Department" means the Department of Corrections.

3271 ~~[(8)]~~ (9) "Expiration" ~~[occurs]~~ means when the maximum sentence has run.

3272 ~~[(9)]~~ (10) "Family" means ~~[persons]~~ any individual related to the victim as a spouse,
3273 child, sibling, parent, or grandparent, or the victim's legal guardian.

3274 ~~[(10)]~~ (11) "Hearing" or "full hearing" means an appearance before the board, a panel,
3275 a board member or hearing examiner, at which an offender or inmate is afforded an opportunity
3276 to be present and address the board~~[-and encompasses the term "full hearing."]~~.

3277 ~~[(11)]~~ (12) "Location," in reference to a hearing, means the physical location at which

3278 the board, a panel, a board member, or a hearing examiner is conducting the hearing, regardless
3279 of the location of any person participating by electronic means.

3280 ~~[(12)]~~ (13) "Open session" means any hearing, before the board, a panel, a board
3281 member, or a hearing examiner ~~[which], that~~ is open to the public, regardless of the location of
3282 any person participating by electronic means.

3283 ~~[(13)]~~ (14) "Panel" means members of the board assigned by the chairperson to a
3284 particular case.

3285 ~~[(14)]~~ (15) "Pardon" ~~[is]~~ means:

3286 (a) an act of grace that forgives a criminal conviction and restores the rights and
3287 privileges forfeited by or because of the criminal conviction~~[- A pardon releases];~~

3288 (b) the release of an offender from the entire punishment prescribed for a criminal
3289 offense and from disabilities that are a consequence of the criminal conviction~~[- A pardon~~
3290 ~~reinstates]; and~~

3291 (c) the reinstatement of any civil rights lost as a consequence of conviction or
3292 punishment for a criminal offense.

3293 ~~[(15)]~~ (16) "Parole" ~~[is]~~ means a release from imprisonment on prescribed conditions
3294 which, if satisfactorily performed by the parolee, enables the parolee to obtain a termination of
3295 ~~[his]~~ the parolee's sentence.

3296 (17) "Payment schedule" means the same as that term is defined in Section
3297 77-32b-102.

3298 (18) "Pecuniary damages" means the same as that term is defined in Section
3299 77-38b-102.

3300 ~~[(16)]~~ (19) "Probation" ~~[is]~~ means an act of grace by the court suspending the
3301 imposition or execution of a convicted offender's sentence upon prescribed conditions.

3302 (20) "Remit" or "remission" means the same as that term is defined in Section
3303 77-32b-102.

3304 ~~[(17)]~~ ~~"Reprieve or respite" is]~~

3305 (21) "Reprieve" or "respite" means the temporary suspension of the execution of the

3306 sentence.

3307 (22) "Restitution" means the same as that term is defined in Section 77-38b-102.

3308 ~~[(18)]~~ (23) "Termination" [is] means the act of discharging from parole or concluding
 3309 the sentence of imprisonment ~~[prior to]~~ before the expiration of the sentence.

3310 ~~[(19)]~~ (24) "Victim" means:

3311 (a) a person against whom the defendant committed a felony or class A misdemeanor
 3312 offense~~[-, and regarding which offense]~~ for which a hearing is held under this chapter; or

3313 (b) the victim's family~~[-]~~ if the victim is deceased as a result of the offense for which a
 3314 hearing is held under this chapter.

3315 Section 74. Section ~~77-27-2~~ is amended to read:

3316 **77-27-2. Board of Pardons and Parole -- Creation -- Compensation -- Functions.**

3317 (1) (a) There is created the Board of Pardons and Parole.

3318 (b) The board shall consist of five full-time members and not more than five pro
 3319 tempore members to be appointed by the governor with the advice and consent of the Senate in
 3320 accordance with Title 63G, Chapter 24, Part 2, Vacancies, and as provided in this section.

3321 (c) The members of the board shall be resident citizens of the state.

3322 (d) The governor shall establish salaries for the members of the board within the salary
 3323 range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

3324 (2) (a) (i) (A) The full-time board members shall serve terms of five years.

3325 (B) The terms of the full-time members shall be staggered so one board member is
 3326 appointed for a term of five years on March 1 of each year.

3327 (ii) (A) The pro tempore members shall serve terms of five years, beginning on March
 3328 1 of the year of appointment, with no more than one pro tempore member term beginning or
 3329 expiring in the same calendar year.

3330 (B) If a pro tempore member vacancy occurs, the board may submit the names of not
 3331 fewer than three or more than five persons to the governor for appointment to fill the vacancy.

3332 (b) All vacancies occurring on the board for any cause shall be filled by the governor
 3333 with the advice and consent of the Senate ~~[pursuant to]~~ in accordance with this section for the

3334 unexpired term of the vacating member.

3335 (c) The governor may at any time remove any member of the board for inefficiency,
3336 neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

3337 (d) (i) A member of the board may not hold any other office in the government of the
3338 United States, this state or any other state, or of any county government or municipal
3339 corporation within a state.

3340 (ii) A member may not engage in any occupation or business inconsistent with the
3341 member's duties.

3342 (e) (i) A majority of the board constitutes a quorum for the transaction of business,
3343 including the holding of hearings at any time or any location within or without the state, or for
3344 the purpose of exercising any duty or authority of the board. [~~Action taken by a majority of the
3345 board regarding whether parole, pardon, commutation, termination of sentence, or remission of
3346 fines or forfeitures may be granted or restitution ordered in individual cases is deemed the
3347 action of the board.~~]

3348 (ii) An action is deemed the action of the board if the action is taken by a majority of
3349 the board regarding whether:

3350 (A) parole, pardon, commutation, or termination of a sentence is granted in an
3351 offender's case;

3352 (B) remission of a criminal accounts receivable, or a fines or forfeiture, is granted in an
3353 offender's case; or

3354 (C) an offender's payment schedule for a criminal accounts receivable is modified.

3355 (iii) A majority vote of the five full-time members of the board is required for adoption
3356 of rules or policies of general applicability as provided by statute. [~~However,~~]

3357 (iv) Notwithstanding Subsection (2)(e)(iii), a vacancy on the board does not impair the
3358 right of the remaining board members to exercise any duty or authority of the board as long as a
3359 majority of the board remains.

3360 (v) A board member shall comply with the conflict of interest provisions described in
3361 Title 63G, Chapter 24, Part 3, Conflicts of Interest.

3362 (f) (i) Any investigation, inquiry, or hearing that the board has authority to undertake or
3363 hold may be conducted by any board member or an examiner appointed by the board.

3364 (ii) When [~~any of these actions are~~] an action under Subsection (2)(f)(i) is approved
3365 and confirmed by the board and filed in [its] the board's office, [they are] the action is
3366 considered to be the action of the board and [have] has the same effect as if originally made by
3367 the board.

3368 (g) (i) When a full-time board member is absent or in other extraordinary
3369 circumstances, the chair may, as dictated by public interest and efficient administration of the
3370 board, assign a pro tempore member to act in the place of a full-time member.

3371 (ii) Pro tempore members shall receive a per diem rate of compensation as established
3372 by the Division of Finance and all actual and necessary expenses incurred in attending to
3373 official business.

3374 (h) The chair may request staff and administrative support as necessary from the
3375 [~~Department of Corrections~~] department.

3376 (3) (a) Except as provided in Subsection (3)(b), the [~~Commission on Criminal and~~
3377 ~~Juvenile Justice~~] commission shall:

3378 (i) recommend five applicants to the governor for a full-time member appointment to
3379 the [~~Board of Pardons and Parole~~] board; and

3380 (ii) consider applicants' knowledge of the criminal justice system, state and federal
3381 criminal law, judicial procedure, corrections policies and procedures, and behavioral sciences.

3382 (b) The procedures and requirements of Subsection (3)(a) do not apply if the governor
3383 appoints a sitting board member to a new term of office.

3384 (4) (a) (i) The board shall appoint an individual to serve as [its] the board's mental
3385 health adviser and may appoint other staff necessary to aid [it] the board in fulfilling [its] the
3386 board's responsibilities under Title 77, Chapter 16a, Commitment and Treatment of Persons
3387 with a Mental Illness.

3388 (ii) The adviser shall prepare reports and recommendations to the board on all persons
3389 adjudicated as guilty with a mental illness, in accordance with Title 77, Chapter 16a,

3390 Commitment and Treatment of Persons with a Mental Illness.

3391 (b) The mental health adviser shall possess the qualifications necessary to carry out the
3392 duties imposed by the board and may not be employed by the [~~Department of Corrections~~]
3393 department or the Utah State Hospital.

3394 (i) The [~~Board of Pardons and Parole~~] board may review outside employment by the
3395 mental health advisor.

3396 (ii) The [~~Board of Pardons and Parole~~] board shall develop rules governing
3397 employment with entities other than the board by the mental health advisor for the purpose of
3398 prohibiting a conflict of interest.

3399 (c) The mental health adviser shall:

3400 (i) act as liaison for the board with the Department of Human Services and local mental
3401 health authorities;

3402 (ii) educate the members of the board regarding the needs and special circumstances of
3403 persons with a mental illness in the criminal justice system;

3404 (iii) in cooperation with the [~~Department of Corrections~~] department, monitor the
3405 status of persons in the prison who have been found guilty with a mental illness;

3406 (iv) monitor the progress of other persons under the board's jurisdiction who have a
3407 mental illness;

3408 (v) conduct hearings as necessary in the preparation of reports and recommendations;

3409 and

3410 (vi) perform other duties as assigned by the board.

3411 Section 75. Section **77-27-5** is amended to read:

3412 **77-27-5. Board of Pardons and Parole authority.**

3413 (1) (a) [~~The Board of Pardons and Parole~~] Subject to this chapter and other laws of the
3414 state, and except for a conviction for treason or impeachment, the board shall determine by
3415 majority decision when and under what conditions [~~any convictions, except for treason or~~
3416 ~~impeachment, may be pardoned or commuted, subject to this chapter and other laws of the~~
3417 ~~state.~~] an offender's conviction may be pardoned or commuted.

3418 (b) The Board of Pardons and Parole shall determine by majority decision when and
3419 under what conditions~~[- subject to this chapter and other laws of the state, individuals~~
3420 ~~committed to serve sentences at penal or correctional facilities that are under the jurisdiction of~~
3421 ~~the Department of Corrections, except treason or impeachment convictions or as otherwise~~
3422 ~~limited by law, may be released upon parole, ordered to pay restitution, or have their fines,~~
3423 ~~forfeitures, or restitution remitted, or their sentences terminated.] an offender committed to
3424 serve a sentence at a penal or correctional facility, which is under the jurisdiction of the
3425 department, may:~~

- 3426 (i) be released upon parole;
- 3427 (ii) have a fine or forfeiture remitted;
- 3428 (iii) have the offender's criminal accounts receivable remitted in accordance with
3429 Section [77-32b-105](#) or [77-32b-106](#);
- 3430 (iv) have the offender's payment schedule modified in accordance with Section
3431 [77-32b-103](#); or
- 3432 (v) have the offender's sentence terminated.

3433 (c) (i) The board may sit together or in panels to conduct hearings.

3434 (ii) The chair shall appoint members to the panels in any combination and in
3435 accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative
3436 Rulemaking Act, by the board.

3437 (iii) The chair may participate on any panel and when doing so is chair of the panel.

3438 (iv) The chair of the board may designate the chair for any other panel.

3439 ~~[(d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole,~~
3440 ~~pardon, or commutation granted or sentence terminated, except after a full hearing before the~~
3441 ~~board or the board's appointed examiner in open session. Any action taken under this~~
3442 ~~subsection]~~

3443 (d) (i) Except after a hearing before the board, or the board's appointed examiner, in an
3444 open session, the board may not:

3445 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts

3446 receivable;

3447 (B) release the offender on parole; or

3448 (C) commute, pardon, or terminate an offender's sentence.

3449 (ii) An action taken under this Subsection (1) other than by a majority of the board

3450 shall be affirmed by a majority of the board.

3451 (e) A commutation or pardon may be granted only after a full hearing before the board.

3452 [~~(f) The board may determine restitution as provided in Section 77-27-6 and~~

3453 ~~Subsection 77-38a-302(5)(d)(iii)(A).]~~

3454 (2) (a) In the case of any hearings, timely prior notice of the time and location of the

3455 hearing shall be given to the offender.

3456 (b) The county or district attorney's office responsible for prosecution of the case, the

3457 sentencing court, and law enforcement officials responsible for the defendant's arrest and

3458 conviction shall be notified of any board hearings through the board's website.

3459 (c) Whenever possible, the victim or the victim's representative, if designated, shall be

3460 notified of original hearings and any hearing after that if notification is requested and current

3461 contact information has been provided to the board.

3462 (d) (i) Notice to the victim or the victim's representative shall include information

3463 provided in Section 77-27-9.5, and any related rules made by the board under that section.[

3464 This information]

3465 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are

3466 reasonable for the lay person to understand.

3467 [~~(3) Decisions of the board in cases involving paroles, pardons, commutations or~~

3468 ~~terminations of sentence, restitution, or remission of fines or forfeitures are final and are not~~

3469 ~~subject to judicial review.]~~

3470 (3) (a) A decision by the board is final and not subject for judicial review if the

3471 decision is regarding:

3472 (i) a pardon, parole, commutation, or termination of an offender's sentence;

3473 (ii) the modification of an offender's payment schedule for restitution; or

3474 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

3475 (b) Nothing in this section prevents the obtaining or enforcement of a civil judgment[;
3476 including restitution as provided in Section 77-27-6.].

3477 (4) (a) This chapter may not be construed as a denial of or limitation of the governor's
3478 power to grant respite or reprieves in all cases of convictions for offenses against the state,
3479 except treason or conviction on impeachment. [However,]

3480 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the
3481 next session of the Board of Pardons and Parole [and the board, at that session,].

3482 (c) At the next session of the board, the board:

3483 (i) shall continue or terminate the respite or reprieve[; or it]; or

3484 (ii) may commute the punishment[;] or pardon the offense as provided.

3485 (d) In the case of conviction for treason, the governor may suspend execution of the
3486 sentence until the case is reported to the Legislature at [its] the Legislature's next session.

3487 (e) The Legislature shall [then either] pardon or commute the sentence[; or direct its
3488 execution] or direct the sentence's execution.

3489 (5) (a) In determining when, where, and under what conditions an offender serving a
3490 sentence may be [paroled, pardoned, have restitution ordered, or have the offender's fines or
3491 forfeitures remitted, or the] paroled or pardoned, have a fine or forfeiture remitted, have the
3492 offender's criminal accounts receivable remitted, or have the offender's sentence commuted or
3493 terminated, the board shall:

3494 [{a)] (i) [consider whether the offender has made or is prepared to make restitution as
3495 ascertained in accordance with the standards and procedures of Section 77-38a-302, as a
3496 condition of any parole, pardon, remission of fines or forfeitures, or commutation or
3497 termination of sentence; and] consider whether the offender has made restitution ordered by the
3498 court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole,
3499 pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or
3500 termination of the offender's sentence; and

3501 [{b)] (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for

3502 making determinations under this Subsection (5).

3503 (b) The board shall determine whether to remit an offender's criminal accounts
3504 receivable under this Subsection (5) in accordance with Section [77-32b-105](#) or [77-32b-106](#).

3505 (6) In determining whether parole may be terminated, the board shall consider:

3506 (a) the offense committed by the parolee; and

3507 (b) the parole period [~~as provided in~~] under Section [76-3-202](#), and in accordance with
3508 Section [77-27-13](#).

3509 (7) For [~~offenders~~] an offender placed on parole after December 31, 2018, the board
3510 shall terminate parole in accordance with the supervision length guidelines established by the
3511 Utah Sentencing Commission under Section [63M-7-404](#), to the extent the guidelines are
3512 consistent with the requirements of the law.

3513 Section 76. Section [77-27-6.1](#) is enacted to read:

3514 **77-27-6.1. Payment of a criminal accounts receivable -- Failure to enter an order**
3515 **for restitution or create a criminal accounts receivable -- Modification of a criminal**
3516 **accounts receivable -- Order for recovery of costs or pecuniary damages.**

3517 (1) When an offender is committed to prison, the board may require the offender to pay
3518 the offender's criminal accounts receivable ordered by the court during the period of
3519 incarceration or parole supervision.

3520 (2) If the board orders the release of an offender on parole and there is an unpaid
3521 balance on the offender's criminal accounts receivable, the board may modify the payment
3522 schedule entered by the court for the offender's criminal accounts receivable in accordance with
3523 Section [77-32b-105](#).

3524 (3) (a) If the sentencing court has not entered an order of restitution for an offender
3525 who is under the jurisdiction of the board, the board shall refer the offender's case to the
3526 sentencing court, within the time periods described in Subsection [77-38b-205\(5\)](#), to enter an
3527 order for restitution for the offender in accordance with Section [77-38b-205](#).

3528 (b) If the sentencing court has not entered an order to establish a criminal accounts
3529 receivable for an offender who is under the jurisdiction of the board, the board shall refer the

3530 offender's case to the sentencing court, within the time periods described in Subsection
3531 77-38b-205(5), to enter an order to establish a criminal accounts receivable for the offender in
3532 accordance with Section 77-32b-103.

3533 (4) (a) If there is a challenge to an offender's criminal accounts receivable, the board
3534 shall refer the offender's case to the sentencing court, within the time periods described in
3535 Subsection 77-38b-205(5), to resolve the challenge to the criminal accounts receivable.

3536 (b) If a sentencing court modifies a criminal accounts receivable after the offender is
3537 committed to prison, the sentencing court shall provide notice to the board of the modification.

3538 (5) The board may enter an order to recover any cost incurred by the department, or the
3539 state or any other agency, arising out of the offender's needs or conduct.

3540 Section 77. Section **77-27-11** is amended to read:

3541 **77-27-11. Revocation of parole.**

3542 (1) The board may revoke the parole of any individual who is found to have violated
3543 any condition of the individual's parole.

3544 (2) (a) If a parolee is confined by the [~~Department of Corrections~~] department or any
3545 law enforcement official for a suspected violation of parole, the [~~Department of Corrections~~]
3546 department:

3547 (i) shall immediately report the alleged violation to the board, by means of an incident
3548 report[;]; and

3549 (ii) make any recommendation regarding the incident.

3550 (b) [~~No parolee may be~~] A parolee may not be held for a period longer than 72 hours,
3551 excluding weekends and holidays, without first obtaining a warrant.

3552 (3) Any member of the board may:

3553 (a) issue a warrant based upon a certified warrant request to a peace officer or other
3554 persons authorized to arrest, detain, and return to actual custody a parolee[; and may]; and

3555 (b) upon arrest [or otherwise direct the Department of Corrections to] of the parolee,
3556 determine, or direct the department to determine, if there is probable cause to believe that the
3557 parolee has violated the conditions of the parolee's parole.

3558 (4) Upon a finding of probable cause, a parolee may be further detained or imprisoned
3559 again pending a hearing by the board or ~~[its]~~ the board's appointed examiner.

3560 (5) (a) The board or ~~[its]~~ the board's appointed examiner shall conduct a hearing on the
3561 alleged violation, and the parolee shall have written notice of the time and location of the
3562 hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

3563 (b) The board or ~~[its]~~ the board's appointed examiner shall provide the parolee the
3564 opportunity:

3565 (i) to be present;

3566 (ii) to be heard;

3567 (iii) to present witnesses and documentary evidence;

3568 (iv) to confront and cross-examine adverse witnesses, absent a showing of good cause
3569 for not allowing the confrontation; and

3570 (v) to be represented by counsel when the parolee is mentally incompetent or pleading
3571 not guilty.

3572 (c) (i) If heard by an appointed examiner, the examiner shall make a written decision
3573 which shall include a statement of the facts relied upon by the examiner in determining the
3574 guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the
3575 alleged violation occurred.

3576 (ii) The appointed examiner shall then refer the case to the board for disposition.

3577 ~~[(d) Final decisions shall be reached by majority vote of the members of the board
3578 sitting and the parolee shall be promptly notified in writing of the board's findings and
3579 decision.]~~

3580 ~~[(6) (a) Parolees found to have violated the conditions of parole may, at the discretion
3581 of the board, be returned to parole, have restitution ordered, or be imprisoned again as
3582 determined by the board, not to exceed the maximum term, or be subject to any other
3583 conditions the board may impose within its discretion.]~~

3584 (d) (i) A final decision shall be reached by a majority vote of the sitting members of the
3585 board.

3586 (ii) A parolee shall be promptly notified in writing of the board's findings and decision.

3587 (6) (a) If a parolee is found to have violated the terms of parole, the board, at the
3588 board's discretion, may:

3589 (i) return the parolee to parole;

3590 (ii) modify the payment schedule for the parolee's criminal accounts receivable in
3591 accordance with Section [77-32b-105](#);

3592 (iii) order the parolee to pay pecuniary damages that are proximately caused by a
3593 defendant's violation of the terms of the defendant's parole;

3594 (iv) order the parolee to be imprisoned, but not to exceed the maximum term of
3595 imprisonment for the parolee's sentence; or

3596 (v) order any other conditions for the parolee.

3597 (b) If the board returns the parolee to parole, the length of parole may not be for a
3598 period of time that exceeds the length of the parolee's maximum sentence.

3599 (c) If the board revokes parole for a violation and orders incarceration, the board shall
3600 impose a period of incarceration consistent with the guidelines under Subsection
3601 [63M-7-404\(5\)](#).

3602 (d) The following periods of time constitute service of time toward the period of
3603 incarceration imposed under Subsection (6)(c):

3604 (i) time served in jail by a parolee awaiting a hearing or decision concerning revocation
3605 of parole; and

3606 (ii) time served in jail by a parolee due to a violation of parole under Subsection
3607 [64-13-6\(2\)](#).

3608 Section 78. Section **77-30-24** is amended to read:

3609 **77-30-24. Payment of expenses -- Extradition costs.**

3610 (1) (a) When the punishment of [~~the crime~~] an offense is the confinement of the
3611 defendant in prison, the expenses shall be paid out of the state treasury on the certificate of the
3612 governor and warrant of the auditor[~~, and in~~].

3613 (b) In all other cases [~~they~~], the expenses for confinement shall be paid out of the

3614 treasury of the county where the ~~[crime]~~ offense is alleged to have been committed.

3615 (c) The expenses shall be the fees paid to the officers of the state on whose governor
3616 the requisition is made.

3617 ~~[(2) Any person who is returned to the state under this chapter, and who is convicted~~
3618 ~~of, or pleads guilty or no contest to, the criminal charge or to a lesser criminal charge may,~~
3619 ~~under Sections 76-3-201, 77-27-5, and 77-27-6, be required to make restitution to the~~
3620 ~~appropriate governmental entities for the costs of his extradition.]~~

3621 (2) If a defendant is returned to the state under this chapter and the defendant is
3622 convicted of, or pleads guilty or no contest to, the offense or to a lesser offense, the defendant
3623 may be required to pay the costs of extradition to the appropriate governmental entity as
3624 described in Subsection 76-3-201(4)(c).

3625 Section 79. Section **77-32b-101** is enacted to read:

3626 **CHAPTER 32b. CRIMINAL ACCOUNTS RECEIVABLE AND COSTS**

3627 **77-32b-101. Title.**

3628 This chapter is known as "Criminal Accounts Receivable and Costs."

3629 Section 80. Section **77-32b-102**, which is renumbered from Section 77-32a-101 is
3630 renumbered and amended to read:

3631 ~~**[77-32a-101].**~~ **77-32b-102. Definitions.**

3632 As used in this chapter:

3633 ~~[(1) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,~~
3634 ~~surcharges, costs, interest, penalties, restitution to victims, third party claims, claims,~~
3635 ~~reimbursement of a reward, and damages.]~~

3636 ~~[(2) "Criminal judgment accounts receivable" means any amounts owed by a criminal~~
3637 ~~defendant arising from a criminal judgment that has not been paid. This includes fines,~~
3638 ~~surcharges, costs, interest, and restitution.]~~

3639 (1) "Board" means the Board of Pardons and Parole.

3640 (2) (a) "Civil accounts receivable" means any amount of the criminal accounts
3641 receivable that is owed by the defendant that has not been paid on or before the day on which:

- 3642 (i) the defendant's sentence is terminated; or
3643 (ii) the court enters an order for a civil accounts receivable under Subsection
3644 77-18-114(1) or (2).
- 3645 (b) "Civil accounts receivable" does not include any amount of the criminal accounts
3646 receivable that is owed by the defendant for restitution.
- 3647 (3) "Civil judgment of restitution" means any amount of the criminal accounts
3648 receivable that is owed by the defendant for restitution that has not been paid on or before the
3649 day on which the defendant's sentence is terminated.
- 3650 (4) (a) "Criminal accounts receivable" means any amount owed by a defendant that
3651 arises from a criminal judgment until:
- 3652 (i) the defendant's sentence terminates;
3653 (ii) the court enters an order for a civil accounts receivable under Subsection
3654 77-18-114(1) or (2); or
- 3655 (iii) if the court requires the defendant, upon termination of the probation period for the
3656 defendant, to continue to make payments on the criminal accounts as described in Subsection
3657 77-18-105(8), the defendant's sentence expires.
- 3658 (b) "Criminal accounts receivable" includes unpaid fees, forfeitures, surcharges, costs,
3659 interest, penalties, restitution, third party claims, claims, reimbursement of a reward, and
3660 damages.
- 3661 ~~[(3)]~~ (5) "Default" means [an account receivable] a civil accounts receivable, a civil
3662 judgment of restitution, or a criminal accounts receivable that is overdue by at least 90 days.
- 3663 ~~[(4)]~~ (6) "Delinquent" means [an account receivable or installment payment] a civil
3664 accounts receivable, a civil judgment of restitution, or a criminal account receivable that is
3665 overdue by more than 28 days but less than 90 days.
- 3666 (7) "Payment schedule" means the amount that is be paid by a defendant in
3667 installments, or by a certain date, to satisfy a criminal accounts receivable for the defendant.
- 3668 (8) "Remit" or "remission" means to forgive or to excuse, in whole or in part, any
3669 unpaid amount of a criminal accounts receivable.

3670 (9) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

3671 Section 81. Section **77-32b-103** is enacted to read:

3672 **77-32b-103. Establishment of a criminal accounts receivable -- Responsibility --**
3673 **Payment schedule -- Delinquency or default.**

3674 (1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or
3675 acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts
3676 receivable for the defendant.

3677 (b) The court is not required to create a criminal accounts receivable for the defendant
3678 under Subsection (1) if the court finds that the defendant does not owe restitution and there are
3679 no other fines or fees to be assessed against the defendant.

3680 (c) Subject to Subsection [77-38b-205](#)(5), if the court does not create a criminal
3681 accounts receivable for a defendant under Subsection (1), the court shall enter an order to
3682 establish a criminal accounts receivable for the defendant at the time the court enters an order
3683 for restitution under Section [77-38b-205](#).

3684 (2) After establishing a criminal accounts receivable for a defendant, the court shall:

3685 (a) if a prison sentence is imposed and not suspended for the defendant:

3686 (i) accept any payment for the criminal accounts receivable that is tendered on the date
3687 of sentencing; and

3688 (ii) transfer the responsibility of receiving, distributing, and processing payments for
3689 the criminal accounts receivable to the Office of State Debt Collection; and

3690 (b) for all other cases:

3691 (i) retain the responsibility for receiving, processing, and distributing payments for the
3692 criminal accounts receivable until the court enters a civil accounts receivable or civil judgment
3693 of restitution on the civil judgment docket under Subsection [77-18-114](#)(1) or (2); and

3694 (ii) record each payment by the defendant on the case docket.

3695 (c) For a criminal accounts receivable that a court retains responsibility for receiving,
3696 processing, and distributing payments under Subsection (1)(b)(i), the Judicial Council may
3697 establish rules to require a defendant to pay the cost, or a portion of the cost, that is charged by

3698 a financial institution for the use of a credit or debit card by the defendant to make payments
3699 towards the criminal accounts receivable.

3700 (3) (a) Upon entering an order for a criminal accounts receivable, the court shall
3701 establish a payment schedule for the defendant to make payments towards the criminal
3702 accounts receivable.

3703 (b) In establishing the payment schedule for the defendant, the court shall consider:

3704 (i) the needs of the victim if the criminal accounts receivable includes an order for
3705 restitution under Section [77-38b-205](#);

3706 (ii) the financial resources of the defendant, as disclosed in the financial declaration
3707 under Section [77-38b-204](#);

3708 (iii) the burden that the payment schedule will impose on the defendant regarding the
3709 other reasonable obligations of the defendant;

3710 (iv) the ability of the defendant to pay restitution on an installment basis or on other
3711 conditions fixed by the court;

3712 (v) the rehabilitative effect on the defendant of the payment of restitution and method
3713 of payment; and

3714 (vi) any other circumstance that the court determines is relevant.

3715 (4) A payment schedule for a criminal accounts receivable does not limit the ability of
3716 a judgment creditor to pursue collection by any means allowable by law.

3717 (5) If the court orders restitution under Section [77-38b-205](#), or makes another financial
3718 decision, after sentencing that increases the total amount owed in a defendant's case, the
3719 defendant's criminal accounts receivable balance shall be adjusted to include any new amount
3720 ordered by the court.

3721 (6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as
3722 defined in Section [64-13-1](#), or the defendant is involuntarily committed under Section
3723 [62A-15-631](#);

3724 (i) all payments for a payment schedule shall be suspended for the period of time that
3725 the defendant is incarcerated or involuntarily committed, unless the court, or the board if the

3726 defendant is under the jurisdiction of the board, expressly orders the defendant to make
3727 payments according to the payment schedule; and

3728 (ii) the defendant shall provide the court with notice of the incarceration or involuntary
3729 commitment.

3730 (b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day
3731 in which the defendant is released from incarceration or commitment.

3732 Section 82. Section **77-32b-104**, which is renumbered from Section 77-32a-107 is
3733 renumbered and amended to read:

3734 ~~[77-32a-107].~~ **77-32b-104. Costs -- What constitute costs -- Ability to pay.**

3735 ~~[Costs]~~ (1) Except for a cost described in Subsection 76-3-201(4), costs shall be
3736 limited to expenses [specially] incurred by the state or any political subdivision [in] of the state
3737 for investigating, searching for, apprehending, and prosecuting the defendant, including:

3738 (a) attorney fees of counsel assigned to represent the defendant[~~and~~];

3739 (b) investigators' fees[~~Costs may~~]; or

3740 (c) except for a monetary reward that is paid to a codefendant, an accomplice, or a
3741 bounty hunter, a monetary reward that is:

3742 (i) offered to the public in exchange for information that would lead to the
3743 apprehension and conviction of the defendant; and

3744 (ii) paid to a person who provided information that led to the apprehension and
3745 conviction of the defendant.

3746 (2) A cost may not include:

3747 (a) expenses inherent in providing a constitutionally guaranteed trial [~~or~~];

3748 (b) expenditures in connection with the maintenance and operation of government
3749 agencies that must be made by the public irrespective of specific violations of law[~~Costs may~~
3750 not include]; or

3751 (c) attorney fees for prosecuting attorneys.

3752 (3) The court may not order a defendant to pay a cost, unless there is evidence that the
3753 defendant is, or will be, able to pay the cost.

3754 (4) In determining the amount of a cost that a defendant is ordered to pay, the court
3755 shall take into account:

3756 (a) the financial resources of the defendant;

3757 (b) the nature of the burden that payment of the cost will impose; and

3758 (c) that restitution is prioritized over any cost.

3759 Section 83. Section **77-32b-105** is enacted to read:

3760 **77-32b-105. Petition for remittance or modification of a criminal accounts**
3761 **receivable before termination of a sentence.**

3762 (1) At any time before a defendant's sentence terminates, the defendant may petition
3763 the sentencing court to:

3764 (a) correct an error in a criminal accounts receivable;

3765 (b) modify the payment schedule for the defendant's criminal accounts receivable in
3766 accordance with this section if the defendant is not under the jurisdiction of the board; or

3767 (c) remit, in whole or in part, an unpaid amount of the defendant's criminal accounts
3768 receivable that is not the principal amount owed for restitution in accordance with this section.

3769 (2) If a defendant files a petition under Subsection (1), and it appears to the satisfaction
3770 of the sentencing court that payment of an unpaid amount of a criminal accounts receivable
3771 will impose manifest hardship on the defendant, or the defendant's family, the court may:

3772 (a) if the criminal accounts receivable is not delinquent or in default, remit, in whole or
3773 in part, the unpaid amount of the criminal accounts receivable that is not the principal amount
3774 owed for restitution; or

3775 (b) regardless of whether the criminal accounts receivable is delinquent or in default:

3776 (i) require the defendant to pay the criminal accounts receivable, or a specified amount
3777 of the criminal accounts receivable, by a certain date;

3778 (ii) modify the payment schedule for the criminal accounts receivable in accordance
3779 with the factors described in Subsection [77-32b-103\(3\)\(b\)](#) if the defendant has demonstrated
3780 that the criminal accounts receivable will impose a manifest hardship due to changed
3781 circumstances or new evidence that justifies modifying the payment schedule; or

3782 (iii) allow the defendant to satisfy an unpaid amount of the criminal accounts
3783 receivable that is not the principal amount owed for restitution with proof of compensatory
3784 service completed by the defendant at a rate of credit not less than \$10 for each hour of
3785 compensatory service.

3786 (3) (a) If a defendant is under the jurisdiction of the board, the defendant may petition
3787 the board, at any time before the defendant's sentence terminates, to modify the payment
3788 schedule for the defendant's criminal accounts receivable.

3789 (b) If a defendant files a petition under Subsection (3)(a), the board may modify the
3790 payment schedule for the criminal accounts receivable in accordance with the factors described
3791 in Subsection 77-32b-103(3)(b) if the defendant has demonstrated that the criminal accounts
3792 receivable will impose a manifest hardship to the defendant, or the defendant's family, due to
3793 changed circumstances or new evidence that justifies modifying the payment schedule.

3794 Section 84. Section **77-32b-106** is enacted to read:

3795 **77-32b-106. Petition for remittance of an unpaid balance of a criminal accounts**
3796 **receivable upon termination of a sentence.**

3797 (1) (a) If a defendant is not under the jurisdiction of the board, and if any amount of a
3798 defendant's criminal accounts receivable is unpaid at the termination of the defendant's
3799 sentence, the defendant may petition the sentencing court, within 90 days after the day on
3800 which the sentence is terminated, to remit, in whole or in part, the unpaid amount of the
3801 criminal accounts receivable.

3802 (b) (i) If a defendant is under the jurisdiction of the board, and if any amount of the
3803 defendant's criminal accounts receivable is unpaid at the termination of the defendant's
3804 sentence, the defendant may petition the board within 90 days after the day on which the
3805 sentence is terminated, to remit, in whole or in part, the unpaid amount of the criminal accounts
3806 receivable.

3807 (ii) If a defendant files a petition for remittance under Subsection (1)(b)(i) within 90
3808 days from the day on which the defendant's sentence is terminated, the board retains
3809 jurisdiction over the defendant's case beyond the termination of the defendant's sentence to

3810 determine whether to remit, in whole or in part, the defendant's criminal accounts receivable.

3811 (2) (a) If a petition is filed under Subsection (1), a hearing shall be held, unless the
3812 court or the board determines that the petition under Subsection (1) is frivolous or the petition
3813 is uncontested.

3814 (b) If a hearing is held under Subsection (2)(a), and the court, or the board, finds by a
3815 preponderance of the evidence that the factors listed in Subsection (3) weigh in favor of
3816 remitting, in whole or in part, the unpaid amount of a criminal accounts receivable, the court or
3817 the board may remit:

3818 (i) any of the unpaid amount of the criminal accounts receivable that is not the
3819 principal amount owed for restitution; or

3820 (ii) if the victim consents to remittance of the unpaid amount of the criminal accounts
3821 receivable that is restitution that the defendant owes to the victim, any of the unpaid amount of
3822 restitution that defendant owes to the victim.

3823 (c) The court, or the board, shall give the prosecuting attorney and the victim:

3824 (i) notice of a hearing on the remittance of a criminal accounts receivable; and

3825 (ii) an opportunity to be heard at the hearing.

3826 (d) Nothing in this section shall be construed to prohibit a victim from pursuing a
3827 private action against a defendant, even if the victim consents to the remission of restitution.

3828 (3) In making a determination to remit an unpaid amount of a criminal accounts
3829 receivable, the court, or the board, shall consider:

3830 (a) whether the defendant has made substantial and good faith efforts to make
3831 payments on the criminal accounts receivable;

3832 (b) the needs of the victim;

3833 (c) whether the remission would further the rehabilitation of the defendant;

3834 (d) the ability of the defendant to continue to make payments on a civil accounts
3835 receivable; and

3836 (e) any other factor that the court or the board determines is relevant.

3837 (4) If any unpaid amount of a criminal accounts receivable is not remitted by the court

3838 or the board upon termination of the defendant's sentence, the court shall proceed with an order
3839 for a civil judgment of restitution and a civil accounts receivable as described in Section
3840 77-18-114.

3841 Section 85. Section **77-32b-107**, which is renumbered from Section 77-32a-110 is
3842 renumbered and amended to read:

3843 ~~[77-32a-110].~~ **77-32b-107. Verified statement of time and expenses of**
3844 **counsel for indigent defendants.**

3845 The court may require a verified statement of time and expenses from appointed
3846 counsel, or the nonprofit legal aid or other association providing counsel [~~to convicted indigent~~
3847 ~~defendants~~], for a convicted indigent defendant in order to establish [~~the costs, if any, which~~
3848 ~~will be included in the judgment~~] any cost under Section 77-32b-104 that will be included in
3849 the judgment.

3850 Section 86. Section **77-37-3** is amended to read:

3851 **77-37-3. Bill of rights.**

3852 (1) The bill of rights for victims and witnesses is:

3853 (a) Victims and witnesses have a right to be informed as to the level of protection from
3854 intimidation and harm available to them, and from what sources, as they participate in criminal
3855 justice proceedings as designated by Section **76-8-508**, regarding witness tampering, and
3856 Section **76-8-509**, regarding threats against a victim. Law enforcement, prosecution, and
3857 corrections personnel have the duty to timely provide this information in a form which is useful
3858 to the victim.

3859 (b) Victims and witnesses, including children and their guardians, have a right to be
3860 informed and assisted as to their role in the criminal justice process. All criminal justice
3861 agencies have the duty to provide this information and assistance.

3862 (c) Victims and witnesses have a right to clear explanations regarding relevant legal
3863 proceedings; these explanations shall be appropriate to the age of child victims and witnesses.
3864 All criminal justice agencies have the duty to provide these explanations.

3865 (d) Victims and witnesses should have a secure waiting area that does not require them

3866 to be in close proximity to defendants or the family and friends of defendants. Agencies
3867 controlling facilities shall, whenever possible, provide this area.

3868 (e) Victims may seek restitution or reparations, including medical costs, as provided in
3869 Title 63M, Chapter 7, Criminal Justice and Substance Abuse, [~~and Sections 62A-7-109.5;~~
3870 ~~77-38a-302, and 77-27-6.~~] Title 77, Chapter 38b, Crime Victims Restitution Act, and Section
3871 78A-6-117. State and local government agencies that serve victims have the duty to have a
3872 functional knowledge of the procedures established by the Crime Victim Reparations Board
3873 and to inform victims of these procedures.

3874 (f) Victims and witnesses have a right to have any personal property returned as
3875 provided in Sections 77-24a-1 through 77-24a-5. Criminal justice agencies shall expeditiously
3876 return the property when it is no longer needed for court law enforcement or prosecution
3877 purposes.

3878 (g) Victims and witnesses have the right to reasonable employer intercession services,
3879 including pursuing employer cooperation in minimizing employees' loss of pay and other
3880 benefits resulting from their participation in the criminal justice process. Officers of the court
3881 shall provide these services and shall consider victims' and witnesses' schedules so that
3882 activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may
3883 request that the responsible agency intercede with employers or other parties.

3884 (h) Victims and witnesses, particularly children, should have a speedy disposition of
3885 the entire criminal justice process. All involved public agencies shall establish policies and
3886 procedures to encourage speedy disposition of criminal cases.

3887 (i) Victims and witnesses have the right to timely notice of judicial proceedings they
3888 are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies
3889 have the duty to provide these notifications. Defense counsel and others have the duty to
3890 provide timely notice to prosecution of any continuances or other changes that may be required.

3891 (j) Victims of sexual offenses have the following rights:

3892 (i) the right to request voluntary testing for themselves for HIV infection as provided in
3893 Section 76-5-503 and to request mandatory testing of the alleged sexual offender for HIV

3894 infection as provided in Section 76-5-502;

3895 (ii) the right to be informed whether a DNA profile was obtained from the testing of
3896 the rape kit evidence or from other crime scene evidence;

3897 (iii) the right to be informed whether a DNA profile developed from the rape kit
3898 evidence or other crime scene evidence has been entered into the Utah Combined DNA Index
3899 System;

3900 (iv) the right to be informed whether there is a match between a DNA profile
3901 developed from the rape kit evidence or other crime scene evidence and a DNA profile
3902 contained in the Utah Combined DNA Index System, provided that disclosure would not
3903 impede or compromise an ongoing investigation; and

3904 (v) the right to designate a person of the victim's choosing to act as a recipient of the
3905 information provided under this Subsection (1)(j) and under Subsections (2) and (3).

3906 (k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency
3907 communicate with the victim or the victim's designee regarding the status of DNA testing,
3908 absent a specific request received from the victim or the victim's designee.

3909 (2) The law enforcement agency investigating a sexual offense may:

3910 (a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the
3911 request of a victim or the victim's designee and is the designated agency to provide that
3912 information to the victim or the victim's designee;

3913 (b) require that the victim's request be in writing; and

3914 (c) respond to the victim's request with verbal communication, written communication,
3915 or by email, if an email address is available.

3916 (3) The law enforcement agency investigating a sexual offense has the following
3917 authority and responsibilities:

3918 (a) If the law enforcement agency determines that DNA evidence will not be analyzed
3919 in a case where the identity of the perpetrator has not been confirmed, the law enforcement
3920 agency shall notify the victim or the victim's designee.

3921 (b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence

3922 or other crime scene evidence from an unsolved sexual assault case, the law enforcement
3923 agency shall provide written notification of that intention and information on how to appeal the
3924 decision to the victim or the victim's designee of that intention.

3925 (ii) Written notification under this Subsection (3) shall be made not fewer than 60 days
3926 prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

3927 (c) A law enforcement agency responsible for providing information under Subsections
3928 (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the
3929 victim or the victim's designee, shall advise the victim or the victim's designee of any
3930 significant changes in the information of which the law enforcement agency is aware.

3931 (d) The law enforcement agency investigating the sexual offense is responsible for
3932 informing the victim or the victim's designee of the rights established under Subsections
3933 (1)(j)(ii) through (iv) and (2), and this Subsection (3).

3934 (4) Informational rights of the victim under this chapter are based upon the victim
3935 providing the current name, address, telephone number, and email address, if an email address
3936 is available, of the person to whom the information should be provided to the criminal justice
3937 agencies involved in the case.

3938 Section 87. Section ~~77-37-5~~ is amended to read:

3939 **77-37-5. Remedies -- District Victims' Rights Committee.**

3940 (1) In each judicial district, the Utah Council on Victims of Crime, established in
3941 Section [63M-7-601](#), shall appoint a person who shall chair a judicial district victims' rights
3942 committee consisting of:

- 3943 (a) a county attorney or district attorney;
- 3944 (b) a sheriff;
- 3945 (c) a corrections field services administrator;
- 3946 (d) an appointed victim advocate;
- 3947 (e) a municipal attorney;
- 3948 (f) a municipal chief of police; and
- 3949 (g) other representatives as appropriate.

3950 (2) The committee shall meet at least semiannually to review progress and problems
3951 related to this chapter, Title 77, Chapter 38, Rights of Crime Victims Act, Title 77, Chapter
3952 [~~38a~~] 38b, Crime Victims Restitution Act, and Utah Constitution Article I, Section 28. Victims
3953 and other interested parties may submit matters of concern to the victims' rights committee.
3954 The committee may hold a hearing open to the public on any appropriate matter of concern and
3955 may publish its findings. These matters shall also be considered at the meetings of the victims'
3956 rights committee. The committee shall forward minutes of all meetings to the Utah Council on
3957 Victims of Crime for review and other appropriate action.

3958 (3) If a victims' rights committee is unable to resolve a complaint, it may refer the
3959 complaint to the Utah Council on Victims of Crime.

3960 (4) The Utah Office for Victims of Crime shall provide materials to local law
3961 enforcement to inform every victim of a sexual offense of the right to request testing of the
3962 convicted sexual offender and of the victim as provided in Section [76-5-502](#).

3963 (5) (a) If a person acting under color of state law willfully or wantonly fails to perform
3964 duties so that the rights in this chapter are not provided, an action for injunctive relief may be
3965 brought against the individual and the government entity that employs the individual.

3966 (b) For all other violations, if the committee finds a violation of a victim's right, it shall
3967 refer the matter to the appropriate court for further proceedings consistent with Subsection
3968 [77-38-11\(2\)](#).

3969 (c) The failure to provide the rights in this chapter or Title 77, Chapter 38, Rights of
3970 Crime Victims Act, does not constitute cause for a judgment against the state or any
3971 government entity, or any individual employed by the state or any government entity, for
3972 monetary damages, attorney fees, or the costs of exercising any rights under this chapter.

3973 (6) The person accused of and subject to prosecution for the crime or the act which
3974 would be a crime if committed by a competent adult, has no standing to make a claim
3975 concerning any violation of the provisions of this chapter.

3976 Section 88. Section ~~77-38-3~~ is amended to read:

3977 **77-38-3. Notification to victims -- Initial notice, election to receive subsequent**

3978 **notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact**
3979 **order.**

3980 (1) Within seven days [~~of the filing of felony criminal charges~~] after the day on which
3981 felony criminal charges are filed against a defendant, the prosecuting agency shall provide an
3982 initial notice to reasonably identifiable and locatable victims of the crime contained in the
3983 charges, except as otherwise provided in this chapter.

3984 (2) The initial notice to the victim of a crime shall provide information about electing
3985 to receive notice of subsequent important criminal justice hearings listed in Subsections
3986 77-38-2(5)(a) through (f) and rights under this chapter.

3987 (3) The prosecuting agency shall provide notice to a victim of a crime:

3988 (a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a)
3989 through (f), which the victim has requested; and

3990 [~~(b) for restitution requests to be submitted as provided in Subsection~~
3991 77-38a-302(5)(d)]

3992 (b) for a restitution request to be submitted in accordance with Section 77-38b-202.

3993 (4) (a) The responsible prosecuting agency may provide initial and subsequent notices
3994 in any reasonable manner, including telephonically, electronically, orally, or by means of a
3995 letter or form prepared for this purpose.

3996 (b) In the event of an unforeseen important criminal justice hearing, listed in
3997 Subsections 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith
3998 attempt to contact the victim by telephone shall be considered sufficient notice, provided that
3999 the prosecuting agency subsequently notifies the victim of the result of the proceeding.

4000 (5) (a) The court shall take reasonable measures to ensure that its scheduling practices
4001 for the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for
4002 victims of crimes to be notified.

4003 (b) The court shall [~~also~~] consider whether any notification system [~~it~~] that the court
4004 might use to provide notice of judicial proceedings to defendants could be used to provide
4005 notice of [~~those same~~] judicial proceedings to victims of crimes.

4006 (6) A defendant or, if it is the moving party, the Division of Adult Probation and
4007 Parole, shall give notice to the responsible prosecuting agency of any motion for modification
4008 of any determination made at any of the important criminal justice hearings provided in
4009 Subsections 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so
4010 that the prosecuting agency may comply with ~~[its]~~ the prosecuting agency's notification
4011 obligation.

4012 (7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and
4013 Parole for the important criminal justice hearing ~~[provided in]~~ under Subsection 77-38-2(5)(g).

4014 (b) The board may provide notice in any reasonable manner, including telephonically,
4015 electronically, orally, or by means of a letter or form prepared for this purpose.

4016 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give
4017 notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through
4018 (f) only where the victim has responded to the initial notice, requested notice of subsequent
4019 proceedings, and provided a current address and telephone number if applicable.

4020 (9) To facilitate the payment of restitution and the notice of hearings regarding
4021 restitution, a victim who seeks restitution and notice of restitution hearings shall provide the
4022 court with the victim's current address and telephone number.

4023 ~~[(9)]~~ (10) (a) Law enforcement and criminal justice agencies shall refer any requests
4024 for notice or information about crime victim rights from victims to the responsible prosecuting
4025 agency.

4026 (b) In a case in which the Board of Pardons and Parole is involved, the responsible
4027 prosecuting agency shall forward any request for notice ~~[it]~~ the prosecuting agency has received
4028 from a victim to the Board of Pardons and Parole.

4029 ~~[(10)]~~ (11) In all cases where the number of victims exceeds 10, the responsible
4030 prosecuting agency may send any notices required under this chapter in ~~[its]~~ the prosecuting
4031 agency's discretion to a representative sample of the victims.

4032 ~~[(11)]~~ (12) (a) A victim's address, telephone number, and victim impact statement
4033 maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of

4034 Juvenile Justice Services, Department of Corrections, Utah State Courts, and Board of Pardons
4035 and Parole, for purposes of providing notice under this section, [~~is~~] are classified as protected
4036 [~~as provided in~~] under Subsection 63G-2-305(10).

4037 (b) The victim's address, telephone number, and victim impact statement is available
4038 only to the following persons or entities in the performance of their duties:

4039 (i) a law enforcement agency, including the prosecuting agency;

4040 (ii) a victims' right committee as provided in Section 77-37-5;

4041 (iii) a governmentally sponsored victim or witness program;

4042 (iv) the Department of Corrections;

4043 (v) the Utah Office for Victims of Crime;

4044 (vi) the Commission on Criminal and Juvenile Justice; [~~and~~]

4045 (vii) the Utah State Courts; and

4046 [~~(vii)] (viii) the Board of Pardons and Parole.~~

4047 [~~(12)] (13) The notice provisions as provided in this section do not apply to~~
4048 misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as
4049 provided in Section 77-38-2.

4050 [~~(13)] (14) (a) When a defendant is charged with a felony crime under Sections~~
4051 76-5-301 through 76-5-310 regarding kidnapping, human trafficking, and human smuggling;
4052 Sections 76-5-401 through 76-5-413 regarding sexual offenses; or Section 76-10-1306
4053 regarding aggravated exploitation of prostitution, the court may, during any court hearing
4054 where the defendant is present, issue a pretrial criminal no contact order:

4055 (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise
4056 communicating with the victim directly or through a third party;

4057 (ii) ordering the defendant to stay away from the residence, school, place of
4058 employment of the victim, and the premises of any of these, or any specified place frequented
4059 by the victim or any designated family member of the victim directly or through a third party;
4060 and

4061 (iii) ordering any other relief that the court considers necessary to protect and provide

4062 for the safety of the victim and any designated family or household member of the victim.

4063 (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a
4064 third degree felony.

4065 (c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no
4066 contact order that has been issued if the victim can be located with reasonable effort.

4067 (ii) The court shall also transmit the pretrial criminal no contact order to the statewide
4068 domestic violence network in accordance with Section 78B-7-113.

4069 Section 89. Section 77-38-15 is amended to read:

4070 **77-38-15. Civil action against human traffickers and human smugglers.**

4071 (1) A victim of a person that commits the offense of human trafficking or human
4072 smuggling under Section 76-5-308, human trafficking of a child under Section 76-5-308.5,
4073 aggravated human trafficking or aggravated human smuggling under Section 76-5-310, or
4074 benefitting from human trafficking under Subsection 76-5-309(4) may bring a civil action
4075 against that person.

4076 (2) (a) The court may award actual damages, compensatory damages, punitive
4077 damages, injunctive relief, or any other appropriate relief.

4078 (b) The court may award treble damages on proof of actual damages if the court finds
4079 that the person's acts were willful and malicious.

4080 (3) In an action under this section, the court shall award a prevailing victim reasonable
4081 attorney fees and costs.

4082 (4) An action under this section shall be commenced no later than 10 years after the
4083 later of:

4084 (a) the day on which the victim was freed from the human trafficking or human
4085 smuggling situation;

4086 (b) the day on which the victim attains 18 years ~~[of age]~~ old; or

4087 (c) if the victim was unable to bring an action due to a disability, the day on which the
4088 victim's disability ends.

4089 (5) The time period described in Subsection (4) is tolled during a period of time when

4090 the victim fails to bring an action due to the person:

4091 (a) inducing the victim to delay filing the action;

4092 (b) preventing the victim from filing the action; or

4093 (c) threatening and causing duress upon the victim in order to prevent the victim from
4094 filing the action.

4095 (6) The court shall offset damages awarded to the victim under this section by any
4096 restitution paid to the victim under Title 77, Chapter ~~[38a]~~ 38b, Crime Victims Restitution Act.

4097 (7) A victim may bring an action described in this section in any court of competent
4098 jurisdiction where:

4099 (a) a violation described in Subsection (1) occurred;

4100 (b) the victim resides; or

4101 (c) the person that commits the offense resides or has a place of business.

4102 (8) If the victim is deceased or otherwise unable to represent the victim's own interests
4103 in court, a legal guardian, family member, representative of the victim, or court appointee may
4104 bring an action under this section on behalf of the victim.

4105 (9) This section does not preclude any other remedy available to the victim under the
4106 laws of this state or under federal law.

4107 Section 90. Section ~~77-38b-101~~, which is renumbered from Section 77-38a-101 is
4108 renumbered and amended to read:

4109 **CHAPTER 38b. CRIME VICTIMS RESTITUTION ACT**

4110 **Part 1. General Provisions**

4111 ~~[77-38a-101].~~ 77-38b-101. Title.

4112 This chapter is known as the "Crime Victims Restitution Act."

4113 Section 91. Section ~~77-38b-102~~, which is renumbered from Section 77-38a-102 is
4114 renumbered and amended to read:

4115 ~~[77-38a-102].~~ 77-38b-102. Definitions.

4116 As used in this chapter:

4117 ~~[(1) "Conviction" includes a:]~~

- 4118 ~~[(a) judgment of guilt;]~~
4119 ~~[(b) a plea of guilty; or]~~
4120 ~~[(c) a plea of no contest.]~~
4121 (1) (a) "Conviction" means:
4122 (i) a plea of:
4123 (A) guilty;
4124 (B) guilty with a mental illness; or
4125 (C) no contest; or
4126 (ii) a judgment of:
4127 (A) guilty; or
4128 (B) guilty with a mental illness.
4129 (b) "Conviction" does not include:
4130 (i) a plea in abeyance until a conviction is entered for the plea in abeyance;
4131 (ii) a diversion agreement; or
4132 (iii) an adjudication of a minor for an offense under Section [78A-6-117](#).
4133 (2) "Criminal [~~activities~~] conduct" means:
4134 (a) any misdemeanor or felony offense of which the defendant is convicted; or
4135 (b) any other criminal [~~conduct~~] behavior for which the defendant admits responsibility
4136 to the sentencing court with or without an admission of committing the criminal [~~conduct~~]
4137 behavior.
4138 (3) (a) "Defendant" means an individual who has been convicted of, or entered into a
4139 plea disposition for, [~~a criminal activity~~] criminal conduct.
4140 (b) "Defendant" does not include a minor, as defined in Section [78A-6-105](#), who is
4141 adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 78A, Chapter
4142 6, Juvenile Court Act.
4143 (4) "Department" means the Department of Corrections.
4144 (5) [~~"Diversion"~~] "Diversion agreement" means [~~suspending~~] an agreement entered
4145 into by the prosecuting attorney and the defendant that suspends criminal proceedings [~~prior to~~]

4146 before conviction on the condition that a defendant agree to participate in a rehabilitation
4147 program, ~~[make]~~ pay restitution to the victim, or fulfill some other condition.

4148 (6) "Office" means the Office of State Debt Collection created in Section [63A-3-502](#).

4149 ~~[(6)]~~ (7) "Party" means the ~~[prosecutor,]~~ prosecuting attorney, the defendant, or the
4150 department involved in a prosecution.

4151 ~~[(7) "Pecuniary damages" means all demonstrable economic injury, whether or not yet~~
4152 ~~incurred, including those which a person could recover in a civil action arising out of the facts~~
4153 ~~or events constituting the defendant's criminal activities and includes the fair market value of~~
4154 ~~property taken, destroyed, broken, or otherwise harmed, and losses, including lost earnings,~~
4155 ~~including those and other travel expenses reasonably incurred as a result of participation in~~
4156 ~~criminal proceedings, and medical and other expenses, but excludes punitive or exemplary~~
4157 ~~damages and pain and suffering.]~~

4158 (8) "Payment schedule" means the same as that term is defined in Section [77-32b-102](#).

4159 (9) (a) "Pecuniary damages" means all demonstrable economic injury, losses, and
4160 expenses regardless of whether the economic injury, losses, and expenses have yet been
4161 incurred.

4162 (b) "Pecuniary damages" does not include punitive damages or pain and suffering
4163 damages.

4164 ~~[(8)]~~ (10) "Plea agreement" means an agreement entered between the ~~[prosecution]~~
4165 prosecuting attorney and the defendant setting forth the special terms and conditions and
4166 criminal charges upon which the defendant will enter a plea of guilty or no contest.

4167 ~~[(9)]~~ (11) "Plea disposition" means an agreement entered into between the
4168 ~~[prosecution]~~ prosecuting attorney and the defendant including a diversion agreement, a plea
4169 agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a
4170 plea in any other jurisdiction or where charges are dismissed without a plea.

4171 ~~[(10)]~~ (12) "Plea in abeyance" means an order by a court, upon motion of the
4172 ~~[prosecution]~~ prosecuting attorney and the defendant, accepting a plea of guilty or of no contest
4173 from the defendant but not, at that time, entering judgment of conviction against ~~[him]~~ the

4174 defendant nor imposing sentence upon [~~him~~] the defendant on condition that [~~he~~] the defendant
4175 comply with specific conditions as set forth in a plea in abeyance agreement.

4176 [~~(H)~~] (13) "Plea in abeyance agreement" means an agreement entered into between the
4177 [~~prosecution~~] prosecuting attorney and the defendant setting forth the specific terms and
4178 conditions upon which, following acceptance of the agreement by the court, a plea may be held
4179 in abeyance.

4180 [~~(12)~~] "~~Restitution~~" means ~~full, partial, or nominal payment for pecuniary damages to a~~
4181 ~~victim, including prejudgment interest, the accrual of interest from the time of sentencing,~~
4182 ~~insured damages, reimbursement for payment of a reward, and payment for expenses to a~~
4183 ~~governmental entity for extradition or transportation and as may be further defined by law.]~~

4184 [~~(13)~~] (a) "~~Reward~~" means ~~a sum of money:]~~

4185 [~~(i)~~] ~~offered to the public for information leading to the arrest and conviction of an~~
4186 ~~offender; and]~~

4187 [~~(ii)~~] ~~that has been paid to a person or persons who provide this information, except that~~
4188 ~~the person receiving the payment may not be a codefendant, an accomplice, or a bounty~~
4189 ~~hunter.]~~

4190 [~~(b)~~] "~~Reward~~" ~~does not include any amount paid in excess of the sum offered to the~~
4191 ~~public.]~~

4192 [~~(14)~~] "~~Screening~~" means ~~the process used by a prosecuting attorney to terminate~~
4193 ~~investigative action, proceed with prosecution, move to dismiss a prosecution that has been~~
4194 ~~commenced, or cause a prosecution to be diverted:]~~

4195 [~~(15)~~] (a) "~~Victim~~" means ~~an individual or entity, including the Utah Office for Victims~~
4196 ~~of Crime, that the court determines has suffered pecuniary damages as a result of the~~
4197 ~~defendant's criminal activities:]~~

4198 [~~(b)~~] "~~Victim~~" ~~may not include a codefendant or accomplice:]~~

4199 (14) "Restitution" means the payment of pecuniary damages to a victim.

4200 (15) (a) "Victim" means any person who has suffered pecuniary damages that are
4201 proximately caused by the criminal conduct of the defendant.

- 4202 (b) "Victim" includes:
- 4203 (i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes
- 4204 a payment to a victim under Section [63M-7-519](#);
- 4205 (ii) the estate of a deceased victim; and
- 4206 (iii) a parent, spouse, or sibling of a victim.
- 4207 (c) "Victim" does not include a codefendant or accomplice.

4208 Section 92. Section **77-38b-201** is enacted to read:

Part 2. Determination of Restitution

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

A law enforcement agency investigating criminal conduct that would constitute a felony or a misdemeanor shall include all information about restitution for any potential victim in the investigative report, including information about:

- (1) whether a claim for restitution exists;
- (2) the basis for the claim; and
- (3) the estimated or actual amount of the claim.

Section 93. Section **77-38b-202** is enacted to read:

77-38b-202. Prosecuting attorney responsibility for collecting restitution information -- Depositing restitution on behalf of victim.

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

- (a) contact any known victim of the offense for which the criminal charge is filed, or person asserting a claim for restitution on behalf of the victim; and
- (b) gather the following information from the victim or person:
 - (i) the name of the victim or person; and
 - (ii) the actual or estimated amount of restitution.

(2) (a) When a conviction, a diversion agreement, or a plea in abeyance is entered by the court, the prosecuting attorney shall provide the court with the information gathered by the

4230 prosecuting attorney under Subsection (1)(b).

4231 (b) If, at the time of the plea disposition or conviction, the prosecuting attorney does
4232 not have all the information under Subsection (1)(b), the prosecuting attorney shall provide the
4233 defendant with:

4234 (i) at the time of plea disposition or conviction, all information under Subsection (1)(b)
4235 that is reasonably available to the prosecuting attorney; and

4236 (ii) any information under Subsection (1)(b) as the information becomes available to
4237 the prosecuting attorney.

4238 (c) Nothing in this section shall be construed to prevent a prosecuting attorney, a
4239 victim, or a person asserting a claim for restitution on behalf of a victim from:

4240 (i) submitting information on, or a request for, restitution to the court within the time
4241 periods described in Subsection [77-38b-205\(5\)](#); or

4242 (ii) submitting information on, or a request for, restitution for additional or substituted
4243 victims within the time periods described in Subsection [77-38b-205\(5\)](#).

4244 (3) (a) The prosecuting attorney may be authorized by the appropriate public treasurer
4245 to deposit restitution collected on behalf of a victim into an interest-bearing account in
4246 accordance with Title 51, Chapter 7, State Money Management Act, pending the distribution of
4247 the funds to the victim.

4248 (b) If restitution is deposited into an interest-bearing account under Subsection (3)(a),
4249 the prosecuting attorney shall:

4250 (i) distribute any interest that accrues in the account to each victim on a pro rata basis;
4251 and

4252 (ii) if all victims have been made whole and funds remain in the account, distribute any
4253 remaining funds to the Division of Finance, created in Section [63A-3-101](#), to deposit to the
4254 Utah Office for Victims of Crime.

4255 (c) Nothing in this section prevents an independent judicial authority from collecting,
4256 holding, and distributing restitution.

4257 Section 94. Section **77-38b-203** is enacted to read:

4258 77-38b-203. Department of Corrections responsibility for collecting restitution
4259 **information -- Presentence investigation report -- In camera review of victim information.**

4260 (1) In preparing a presentence investigation report described in Section 77-18-103, the
4261 department shall obtain information on restitution from:

4262 (a) the law enforcement agency and the prosecuting attorney; and

4263 (b) any victim of the offense or person asserting a claim for restitution on behalf of the
4264 victim.

4265 (2) A victim seeking restitution, a prosecuting attorney, or a person asserting a claim
4266 for restitution on behalf of a victim, shall provide the department with:

4267 (a) all invoices, bills, receipts, and any other evidence of pecuniary damages;

4268 (b) all documentation of any compensation or reimbursement from an insurance
4269 company or a local, state, or federal agency that is related to the pecuniary damages for the
4270 offense;

4271 (c) the victim's proof of identification, including the victim's date of birth, social
4272 security number, driver license number; and

4273 (d) the victim's or the person's contact information, including next of kin if available,
4274 current home and work address, and telephone number.

4275 (3) In the presentence investigation report, the department shall make every effort to:

4276 (a) itemize any pecuniary damages suffered by the victim;

4277 (b) include a specific statement on the amount of restitution that the department
4278 recommends for each victim; and

4279 (c) include a victim impact statement that:

4280 (i) provides the name of each victim and any person asserting a claim on behalf of a
4281 victim;

4282 (ii) describes the effect of the offense on the victim and the victim's family;

4283 (iii) describes any physical, mental, or emotional injury suffered by a victim as a result
4284 of the offense and the seriousness and permanence of the injury;

4285 (iv) describes any change in a victim's personal welfare or familial relationships as a

4286 result of the offense;

4287 (v) provides any request for mental health services by a victim or a victim's family
4288 member as a result of the offense; and

4289 (vi) provides any other relevant information regarding the impact of the offense upon a
4290 victim or the victim's family.

4291 (4) (a) A prosecuting attorney and the department may take steps that are reasonably
4292 necessary to protect the identity of a victim and the victim's family in information that is
4293 submitted to the court under this section.

4294 (b) If a defendant seeks to view protected, safeguarded, or confidential information
4295 about a victim or a victim's family, the court shall review the information in camera.

4296 (c) The court may allow the defendant to view the information under Subsection (4)(b)
4297 if the court finds that:

4298 (i) the defendant's interest in viewing the information outweighs the victim's or the
4299 victim's family safety and privacy interests; and

4300 (ii) there are protections in place to safeguard the victim's and the victim's family safety
4301 and privacy interests.

4302 Section 95. Section **77-38b-204**, which is renumbered from Section 77-38a-204 is
4303 renumbered and amended to read:

4304 ~~[77-38a-204].~~ **77-38b-204. Financial declaration by defendant.**

4305 (1) (a) The Judicial Council shall design and publish a financial declaration form to be
4306 completed by a defendant [~~in a case where the prosecutor has indicated that restitution may be~~
4307 ~~ordered.~~] before the sentencing court establishes a payment schedule under Section
4308 77-38b-205.

4309 (b) The financial declaration form shall:

4310 (i) require a defendant to disclose all assets, income, and financial liabilities of the
4311 defendant, including:

4312 (A) real property;

4313 (B) vehicles;

- 4314 (C) precious metals or gems;
- 4315 (D) jewelry with a value of \$1,000 or more;
- 4316 (E) other personal property with a value of \$1,000 or more;
- 4317 (F) ~~[bank account balances]~~ the balance of any bank account and the name of the
- 4318 financial institution for the bank account;
- 4319 (G) cash;
- 4320 (H) salary, wages, commission, tips, and business income, including the name of any
- 4321 employer or entity from which the defendant receives a salary, wage, commission, tip, or
- 4322 business income;
- 4323 (I) pensions and annuities;
- 4324 (J) intellectual property;
- 4325 (K) accounts receivable;
- 4326 (L) accounts payable;
- 4327 (M) mortgages, loans, and other debts; and
- 4328 (N) restitution that has been ordered, and not fully paid, in other cases; and
- 4329 (ii) state that a false statement made in the financial declaration form is punishable as a
- 4330 class B misdemeanor under Section [76-8-504](#).
- 4331 ~~[(2) A defendant shall, before sentencing, or earlier if ordered by the court, complete~~
- 4332 ~~the financial declaration described in Subsection (1).]~~
- 4333 (2) After a plea disposition or conviction has been entered but before sentencing, a
- 4334 defendant shall complete the financial declaration form described in Subsection (1).
- 4335 (3) When a civil judgment of restitution or a civil accounts receivable is entered for a
- 4336 defendant on the civil judgment docket under Section [77-18-114](#), the court shall provide the
- 4337 Office of State Debt Collection with the defendant's financial declaration form.
- 4338 Section 96. Section **77-38b-205** is enacted to read:
- 4339 **77-38b-205. Order for restitution.**
- 4340 (1) (a) (i) If a defendant is convicted, as defined in Section [76-3-201](#), the court shall
- 4341 order a defendant, as part of the sentence imposed under Section [76-3-201](#), to pay restitution to

4342 all victims:

4343 (A) in accordance with the terms of any plea agreement in the case; or

4344 (B) for the entire amount of pecuniary damages that are proximately caused to each
4345 victim by the criminal conduct of the defendant.

4346 (ii) In determining the amount of pecuniary damages under Subsection (1)(a)(i)(B), the
4347 court shall consider all relevant facts to establish an amount that fully compensates a victim for
4348 all pecuniary damages proximately caused by the criminal conduct of the defendant.

4349 (iii) The court shall enter the determination of the amount of restitution under
4350 Subsection (1)(a)(ii) as a finding on the record.

4351 (b) If a court enters a plea in abeyance or a diversion agreement for a defendant that
4352 includes an agreement to pay restitution, the court shall order the defendant to pay restitution in
4353 accordance with the terms of the plea in abeyance or the diversion agreement.

4354 (2) (a) Upon an order for a defendant to pay restitution under Subsection (1), the court
4355 shall:

4356 (i) enter an order to establish a criminal accounts receivable as described in Section
4357 [77-32b-103](#); and

4358 (ii) establish a payment schedule for the criminal accounts receivable as described in
4359 Section [77-32b-103](#).

4360 (3) If the defendant objects to the order for restitution or the payment schedule, the
4361 court shall allow the defendant to have a hearing on the issue, unless the issue is addressed at
4362 the sentencing hearing for the defendant.

4363 (4) (a) For a defendant who is sentenced after July 1, 2021, if no restitution is ordered
4364 at sentencing, the court shall schedule a hearing to determine restitution, unless the parties
4365 waive the hearing in accordance with Subsection (4)(b).

4366 (b) The parties may only waive a hearing under Subsection (4)(a) if:

4367 (i) the parties have stipulated to the amount of restitution owed; or

4368 (ii) the prosecuting attorney certifies that the prosecuting attorney has consulted with
4369 the victim, including the Utah Office for Victims of Crime, and the defendant owes no

4370 restitution.

4371 (c) The court may not enter an order for restitution without a statement from the
4372 prosecuting attorney that the prosecuting attorney has consulted with the victim, including the
4373 Utah Office for Victims of Crime.

4374 (d) If the court does not enter an order for restitution in a hearing under Subsection
4375 (4)(a), the court shall:

4376 (i) state, on the record, why the court did not enter an order for restitution; and

4377 (ii) order a continuance of the hearing.

4378 (5) A court shall enter an order for restitution in a defendant's case no later than the
4379 earlier of:

4380 (a) the termination of the defendant's sentence; or

4381 (b) (i) if the defendant is convicted and imprisoned for a first degree felony, within
4382 seven years after the day on which the court sentences the defendant for the first degree felony
4383 conviction;

4384 (ii) except as provided in Subsection (5)(b)(i), and if the defendant is convicted of a
4385 felony, within three years after the day on which the court sentences the defendant for the
4386 felony conviction; and

4387 (iii) if the defendant is convicted of a misdemeanor, within one year after the day on
4388 which the court sentences the defendant for the misdemeanor conviction.

4389 (6) (a) Upon a motion from the prosecuting attorney or the victim, the court may
4390 modify an existing order of restitution, including the amount of pecuniary damages owed by
4391 the defendant in the order for restitution, if the prosecuting attorney or the victim shows good
4392 cause for modifying the order.

4393 (b) A motion under Subsection (6)(a) shall be brought within the time periods
4394 described in Subsection (5).

4395 Section 97. Section **77-38b-301** is enacted to read:

4396 **Part 3. Civil Accounts Receivables and Civil Judgments for Restitution**

4397 **77-38b-301. Entry of judgment -- Interest -- Civil actions -- Lien -- Delinquency.**

- 4398 (1) As used in this section, "judgment" means an order for:
4399 (a) a civil judgment of restitution; or
4400 (b) a civil accounts receivable.
4401 (2) (a) If the court has entered a judgment on the civil judgment docket under Section
4402 77-18-114, the judgment is enforceable under the Utah Rules of Civil Procedure.
4403 (b) (i) Notwithstanding Subsection (2)(a):
4404 (A) a judgment is an obligation that arises out of the defendant's criminal case;
4405 (B) civil enforcement of a judgment shall be construed as a continuation of the
4406 criminal action for which the judgment arises; and
4407 (C) a judgment is criminal in nature.
4408 (ii) Civil enforcement of a judgment does not divest a defendant of an obligation
4409 imposed in a criminal action as part of the defendant's punishment for an offense.
4410 (3) (a) Notwithstanding Sections 77-18-114, 78B-2-311, and 78B-5-202, a judgment
4411 shall expire only upon payment in full, including applicable interest, collection fees, attorney
4412 fees, and liens that directly result from the judgment.
4413 (b) Interest on a judgment may only accrue from the day on which the judgment is
4414 entered on the civil judgment docket by the court.
4415 (c) This Subsection (3) applies to all judgments that are not paid in full on or before
4416 May 12, 2009.
4417 (4) A judgment is considered entered on the civil judgment docket when the judgment
4418 appears on the civil judgment docket with:
4419 (a) an amount owed by the defendant;
4420 (b) the name of the defendant as the judgment debtor; and
4421 (c) the name of the judgment creditors described in Subsections 77-18-114(1)(c)(iii)
4422 and (2)(b).
4423 (5) If a civil judgment of restitution becomes delinquent, or is in default, and upon a
4424 motion from a judgment creditor, the court may order the defendant to appear and show cause
4425 why the defendant should not be held in contempt under Section 78B-6-317 for the

4426 delinquency or the default.

4427 Section 98. Section **77-38b-302** is enacted to read:

4428 **77-38b-302. Nondischargability in bankruptcy.**

4429 A civil judgment of restitution and a civil accounts receivable are considered a debt
4430 from a criminal case that may not be discharged in bankruptcy.

4431 Section 99. Section **77-38b-303** is enacted to read:

4432 **77-38b-303. Civil action by a victim for damages.**

4433 (1) (a) A provision under this part concerning restitution does not limit or impair the
4434 right of a person injured by a defendant's criminal conduct to sue and recover damages from the
4435 defendant in a civil action.

4436 (b) A court's finding under Subsection [77-38b-205\(1\)\(a\)\(iii\)](#) may be used in a civil
4437 action for a defendant's liability to a victim as presumptive proof of the victim's pecuniary
4438 damages that are proximately caused by the defendant's criminal conduct.

4439 (c) If a conviction in a criminal trial decides the issue of a defendant's liability for
4440 pecuniary damages suffered by a victim, the issue of the defendant's liability is conclusively
4441 determined as to the defendant if the issue is involved in a subsequent civil action.

4442 (2) (a) The sentencing court shall credit any payment in favor of the victim in a civil
4443 action for the defendant's criminal conduct toward the amount of restitution owed by the
4444 defendant to the victim.

4445 (b) In a civil action, a court shall credit any restitution paid by the defendant to a victim
4446 for the defendant's criminal conduct towards the victim against any judgment that is in favor of
4447 the victim for the civil action.

4448 (c) If a victim receives payment from the defendant for the civil action, the victim shall
4449 provide notice to the sentencing court and the court in the civil action of the payment within 30
4450 days after the day on which the victim receives the payment.

4451 (d) Nothing in this section shall prevent a defendant from providing proof of payment
4452 to the court or the office.

4453 (3) (a) If a victim prevails in a civil action against a defendant, the court shall award

4454 reasonable attorney fees and costs to the victim.

4455 (b) If the defendant prevails in the civil action, the court shall award reasonable costs to
 4456 the defendant if the court finds that the victim brought the civil action for an improper purpose,
 4457 including to harass the defendant or to cause unnecessary delay or needless increase in the cost
 4458 of litigation.

4459 Section 100. Section **77-38b-304**, which is renumbered from Section 77-38a-404 is
 4460 renumbered and amended to read:

4461 ~~[77-38a-404].~~ **77-38b-304. Priority.**

4462 ~~[(1) Restitution payments made pursuant to a court order shall be disbursed to victims~~
 4463 ~~within 60 days of receipt from the defendant by the court or department provided:]~~

4464 (1) The court, or the office, shall disburse a payment for restitution within 60 days after
 4465 the day on which the payment is received from the defendant if:

4466 (a) the victim has complied with Subsection ~~[77-38a-203(1)(b)]~~ 77-38b-203(2);

4467 (b) if the defendant has tendered a negotiable instrument, funds from the financial
 4468 institution are actually received; and

4469 (c) the payment to the victim is at least \$5, unless the payment is the final payment.

4470 ~~[(2) If restitution to more than one person, agency, or entity is required at the same~~
 4471 ~~time, the department shall establish the following priorities of payment, except as provided in~~
 4472 ~~Subsection (4):]~~

4473 ~~[(a) the crime victim;]~~

4474 ~~[(b) the Utah Office for Victims of Crime;]~~

4475 ~~[(c) any other government agency which has provided reimbursement to the victim as a~~
 4476 ~~result of the offender's criminal conduct;]~~

4477 ~~[(d) the person, entity, or governmental agency that has offered and paid a reward~~
 4478 ~~under Section ~~77-32a-101~~;~~]

4479 ~~[(e) any insurance company which has provided reimbursement to the victim as a result~~
 4480 ~~of the offender's criminal conduct; and]~~

4481 ~~[(f) any county correctional facility to which the defendant is required to pay restitution~~

4482 under Subsection ~~76-3-201(6)~~.]

4483 [~~(3) Restitution ordered under Subsection (2)(f) is paid after criminal fines and~~
4484 ~~surcharges are paid.~~]

4485 [~~(4) If the offender is required under Section ~~53-10-404~~ to reimburse the department~~
4486 ~~for the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority~~
4487 ~~after restitution to the crime victim under Subsection (2)(a).~~]

4488 [~~(5) All money collected for court-ordered obligations from offenders by the~~
4489 ~~department will be applied:~~]

4490 [~~(a) first, to victim restitution, except the current and past due amount of \$30 per~~
4491 ~~month required to be collected by the department under Section ~~64-13-21~~, if applicable; and]~~

4492 [~~(b) second, if applicable, to the cost of obtaining a DNA specimen under Subsection~~
4493 ~~(4).~~]

4494 [~~(6) Restitution owed to more than one victim shall be disbursed to each victim~~
4495 ~~according to the percentage of each victim's share of the total restitution order.~~]

4496 (2) The court, or the office, shall disburse money collected from a defendant for a
4497 criminal accounts receivable in the following order of priority:

4498 (a) first, and except as provided in Subsection (4)(b), to restitution owed by the
4499 defendant in accordance with Subsection (4);

4500 (b) second, to the cost of obtaining a DNA specimen from the defendant as described
4501 in Subsection (4)(b);

4502 (c) third, to any criminal fine or surcharge owed by the defendant;

4503 (d) fourth, to the cost owed by the defendant for a reward described in Section
4504 ~~77-32b-104~~;

4505 (e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization,
4506 and related transportation paid by a county correctional facility under Section ~~17-50-319~~; and

4507 (f) sixth, to any other cost owed by the defendant.

4508 (3) The office shall disburse money collected from a defendant for a civil accounts
4509 receivable and civil judgment of restitution in the following order of priority:

- 4510 (a) first, to any past due amount owed to the department for the monthly supervision
4511 fee under Subsection [64-13-21\(6\)\(a\)](#);
- 4512 (b) second, and except as provided in Subsection (4)(b), to restitution owed by the
4513 defendant in accordance with Subsection (4);
- 4514 (c) third, to the cost of obtaining a DNA specimen from the defendant in accordance
4515 with Subsection (4)(b);
- 4516 (d) fourth, to any criminal fine or surcharge owed by the defendant;
- 4517 (e) fifth, to the cost owed by the defendant for a reward described in Section
4518 [77-32b-104](#);
- 4519 (f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization
4520 and related transportation paid by a county correctional facility under Section [17-50-319](#); and
- 4521 (g) seventh, to any other cost owed by the defendant.
- 4522 (4) (a) If a defendant owes restitution to more than one person or government agency at
4523 the same time, the court, or the office, shall disburse a payment for restitution in the following
4524 order of priority:
- 4525 (i) first, to the victim of the offense;
- 4526 (ii) second, to the Utah Office for Victims of Crime;
- 4527 (iii) third, any other government agency that has provided reimbursement to the victim
4528 as a result of the defendant's criminal conduct; and
- 4529 (iv) fourth, any insurance company that has provided reimbursement to the victim as a
4530 result of the defendant's criminal conduct.
- 4531 (b) If a defendant is required under Section [53-10-404](#) to reimburse the department for
4532 the cost of obtaining the defendant's DNA specimen, the reimbursement for the cost of
4533 obtaining the defendant's DNA specimen is the next priority after restitution to the victim of
4534 the offense under Subsection (4)(a)(i).
- 4535 (c) If the defendant is required to pay restitution to more than one victim, restitution
4536 shall be disbursed to each victim according to the percentage of each victim's share of the total
4537 order for restitution.

4538 (5) For a criminal accounts receivable, the department shall collect the current and past
4539 due amount owed by a defendant for the monthly supervision fee under Subsection
4540 64-13-21(6)(a) until the court enters a civil accounts receivable on the civil judgment docket
4541 under Section 77-18-114.

4542 Section 101. Section **77-38b-401**, which is renumbered from Section 77-38a-502 is
4543 renumbered and amended to read:

4544 **Part 4. Enforcement and Collection of Restitution**

4545 ~~[77-38a-502].~~ **77-38b-401. Collection from inmate offenders.**

4546 ~~[In addition to the remedies provided in Section 77-38a-501, the]~~ Upon written request
4547 of the prosecuting attorney, the victim, or the parole or probation agent for the defendant, the
4548 department [upon written request of the prosecutor, victim, or parole or probation agent,] shall
4549 collect restitution from offender funds held by the department [as provided in] under Section
4550 64-13-23.

4551 Section 102. Section **77-38b-402**, which is renumbered from Section 77-38a-601 is
4552 renumbered and amended to read:

4553 ~~[77-38a-601].~~ **77-38b-402. Preservation of assets.**

4554 (1) ~~[Prior to or at the time]~~ Before, or at the time, a criminal information, indictment
4555 charging a violation, or a petition alleging delinquency is filed, or at any time during the
4556 prosecution of the case, a ~~[prosecutor]~~ prosecuting attorney may, if in the ~~[prosecutor's]~~
4557 prosecuting attorney's best judgment there is a substantial likelihood that a conviction will be
4558 obtained and restitution will be ordered in the case, petition the court to:

4559 (a) enter a temporary restraining order, an injunction, or both;
4560 (b) require the execution of a satisfactory performance bond; or
4561 (c) take any other action to preserve the availability of property ~~[which]~~ that may be
4562 necessary to satisfy an anticipated ~~[restitution order]~~ order for restitution.

4563 (2) (a) Upon receiving a request from a ~~[prosecutor]~~ prosecuting attorney under
4564 Subsection (1), and after notice to ~~[persons]~~ a person appearing to have an interest in the
4565 property and affording ~~[them]~~ the person an opportunity to be heard, the court may take action

4566 as requested by the [~~prosecutor~~] prosecuting attorney if the court determines:

4567 (i) there is probable cause to believe that [~~a crime~~] an offense has been committed and
4568 that the defendant committed [~~it~~] the offense, and that failure to enter the order will likely
4569 result in the property being sold, distributed, exhibited, destroyed, or removed from the
4570 jurisdiction of the court, or otherwise be made unavailable for restitution; and

4571 (ii) the need to preserve the availability of the property or prevent [~~its~~] the property's
4572 sale, distribution, exhibition, destruction, or removal through the entry of the requested order
4573 outweighs the hardship on any party against whom the order is to be entered.

4574 (b) In a hearing conducted [~~pursuant to~~] in accordance with this section, a court may
4575 consider reliable hearsay as defined in Utah Rules of Evidence, Rule 1102.

4576 (c) An order for an injunction entered under this section is effective for the period of
4577 time given in the order.

4578 (3) (a) Upon receiving a request for a temporary restraining order from a [~~prosecutor~~]
4579 prosecuting attorney under this section, a court may enter a temporary restraining order against
4580 an owner with respect to specific property without notice or opportunity for a hearing if:

4581 (i) the [~~prosecutor~~] prosecuting attorney demonstrates that there is a substantial
4582 likelihood that the property with respect to which the order is sought appears to be necessary to
4583 satisfy an anticipated restitution order under this chapter; and

4584 (ii) provision of notice would jeopardize the availability of the property to satisfy any
4585 [~~restitution order or judgment~~] judgment or order for restitution.

4586 (b) The temporary order in this Subsection (3) expires [~~not more than 10 days after it~~]
4587 no later than 10 days after the day on which the temporary order is entered unless extended for
4588 good cause shown or the party against whom [~~it~~] the temporary order is entered consents to an
4589 extension.

4590 (4) A hearing concerning an order entered under this section shall be held as soon as
4591 possible, and [~~prior to~~] before the expiration of the temporary order.

4592 Section 103. Section ~~77-40-102~~ is amended to read:

4593 **77-40-102. Definitions.**

4594 As used in this chapter:

4595 (1) "Administrative finding" means a decision upon a question of fact reached by an
4596 administrative agency following an administrative hearing or other procedure satisfying the
4597 requirements of due process.

4598 (2) "Agency" means a state, county, or local government entity that generates or
4599 maintains records relating to an investigation, arrest, detention, or conviction for an offense for
4600 which expungement may be ordered.

4601 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public
4602 Safety established in Section 53-10-201.

4603 (4) "Certificate of eligibility" means a document issued by the bureau stating that the
4604 criminal record and all records of arrest, investigation, and detention associated with a case that
4605 is the subject of a petition for expungement is eligible for expungement.

4606 (5) (a) "Clean slate eligible case" means a case:

4607 (i) where, except as provided in Subsection (5)(c), each conviction within the case is:

4608 (A) a misdemeanor conviction for possession of a controlled substance in violation of
4609 Subsection 58-37-8(2)(a)(i);

4610 (B) a class B or class C misdemeanor conviction; or

4611 (C) an infraction conviction;

4612 (ii) that involves an individual:

4613 (A) whose total number of convictions in Utah state courts, not including infractions,
4614 traffic offenses, or minor regulatory offenses, does not exceed the limits described in

4615 Subsections 77-40-105(5) and (6) without taking into consideration the exception in Subsection
4616 77-40-105(8); and

4617 (B) against whom no criminal proceedings are pending in the state; and

4618 (iii) for which the following time periods have elapsed from the day on which the case
4619 is adjudicated:

4620 (A) at least five years for a class C misdemeanor or an infraction;

4621 (B) at least six years for a class B misdemeanor; and

4622 (C) at least seven years for a class A conviction for possession of a controlled
4623 substance in violation of Subsection 58-37-8(2)(a)(i).

4624 (b) "Clean slate eligible case" includes a case that is dismissed as a result of a
4625 successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b)
4626 if:

4627 (i) except as provided in Subsection (5)(c), each charge within the case is:

4628 (A) a misdemeanor for possession of a controlled substance in violation of Subsection
4629 58-37-8(2)(a)(i);

4630 (B) a class B or class C misdemeanor; or

4631 (C) an infraction;

4632 (ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

4633 (iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed
4634 from the day on which the case is dismissed.

4635 (c) "Clean slate eligible case" does not include a case:

4636 (i) where the individual is found not guilty by reason of insanity;

4637 (ii) where the case establishes [~~a criminal judgment accounts receivable, as defined in~~
4638 ~~Section 77-32a-101~~] a criminal accounts receivable, as defined in Section 77-32b-102, that:

4639 (A) has been entered as a [~~civil judgment~~] civil accounts receivable or a civil judgment
4640 of restitution, as those terms are defined in Section 77-32b-102, and transferred to the Office of
4641 State Debt Collection under Section 77-18-114; or

4642 (B) has not been satisfied according to court records; or

4643 (iii) that resulted in one or more pleas held in abeyance or convictions for the following
4644 offenses:

4645 (A) any of the offenses listed in Subsection 77-40-105(2)(a);

4646 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
4647 the Person;

4648 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

4649 (D) sexual battery in violation of Section 76-9-702.1;

- 4650 (E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
- 4651 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
- 4652 and Reckless Driving;
- 4653 (G) damage to or interruption of a communication device in violation of Section
- 4654 76-6-108;
- 4655 (H) a domestic violence offense as defined in Section 77-36-1; or
- 4656 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
- 4657 other than a class A misdemeanor conviction for possession of a controlled substance in
- 4658 violation of Subsection 58-37-8(2)(a)(i).
- 4659 (6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty
- 4660 after trial, a plea of guilty, or a plea of nolo contendere.
- 4661 (7) "Department" means the Department of Public Safety established in Section
- 4662 53-1-103.
- 4663 (8) "Drug possession offense" means an offense under:
- 4664 (a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i),
- 4665 possession of 100 pounds or more of marijuana, any offense enhanced under Subsection
- 4666 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a
- 4667 controlled substance illegally in the person's body and negligently causing serious bodily injury
- 4668 or death of another;
- 4669 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;
- 4670 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or
- 4671 (d) any local ordinance which is substantially similar to any of the offenses described
- 4672 in this Subsection (8).
- 4673 (9) "Expunge" means to seal or otherwise restrict access to the individual's record held
- 4674 by an agency when the record includes a criminal investigation, detention, arrest, or conviction.
- 4675 (10) "Jurisdiction" means a state, district, province, political subdivision, territory, or
- 4676 possession of the United States or any foreign country.
- 4677 (11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any

4678 local ordinance, except:

- 4679 (a) any drug possession offense;
- 4680 (b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;
- 4681 (c) Sections 73-18-13 through 73-18-13.6;
- 4682 (d) those offenses defined in Title 76, Utah Criminal Code; or
- 4683 (e) any local ordinance that is substantially similar to those offenses listed in

4684 Subsections (11)(a) through (d).

4685 (12) "Petitioner" means an individual applying for expungement under this chapter.

4686 (13) (a) "Traffic offense" means:

4687 (i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41,

4688 Chapter 6a, Traffic Code;

4689 (ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

4690 (iii) Title 73, Chapter 18, State Boating Act; and

4691 (iv) all local ordinances that are substantially similar to those offenses.

4692 (b) "Traffic offense" does not mean:

4693 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

4694 (ii) Sections 73-18-13 through 73-18-13.6; or

4695 (iii) any local ordinance that is substantially similar to the offenses listed in

4696 Subsections (13)(b)(i) and (ii).

4697 Section 104. Section 77-40-105 is amended to read:

4698 **77-40-105. Requirements to apply for a certificate of eligibility to expunge**

4699 **conviction.**

4700 (1) An individual convicted of an offense may apply to the bureau for a certificate of
4701 eligibility to expunge the record of conviction as provided in this section.

4702 (2) An individual is not eligible to receive a certificate of eligibility from the bureau if:

4703 (a) the conviction for which expungement is sought is:

4704 (i) a capital felony;

4705 (ii) a first degree felony;

- 4706 (iii) a violent felony as defined in Subsection [76-3-203.5\(1\)\(c\)\(i\)](#);
- 4707 (iv) felony automobile homicide;
- 4708 (v) a felony conviction described in Subsection [41-6a-501\(2\)](#);
- 4709 (vi) a registerable sex offense as defined in Subsection [77-41-102\(17\)](#); or
- 4710 (vii) a registerable child abuse offense as defined in Subsection [77-43-102\(2\)](#);
- 4711 (b) a criminal proceeding is pending against the petitioner; or
- 4712 (c) the petitioner intentionally or knowingly provides false or misleading information
- 4713 on the application for a certificate of eligibility.

4714 (3) A petitioner seeking to obtain expungement for a record of conviction is not
4715 eligible to receive a certificate of eligibility from the bureau until all of the following have
4716 occurred:

4717 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
4718 conviction for which expungement is sought;

4719 (b) the petitioner has paid in full all restitution ordered by the court [~~pursuant to~~
4720 ~~Section [77-38a-302](#), or by the Board of Pardons and Parole pursuant to Section [77-27-6](#)~~] under
4721 Section [77-38b-205](#); and

4722 (c) the following time periods have elapsed from the date the petitioner was convicted
4723 or released from incarceration, parole, or probation, whichever occurred last, for each
4724 conviction the petitioner seeks to expunge:

4725 (i) 10 years in the case of a misdemeanor conviction of Subsection [41-6a-501\(2\)](#) or a
4726 felony conviction of Subsection [58-37-8\(2\)\(g\)](#);

4727 (ii) seven years in the case of a felony;

4728 (iii) five years in the case of any class A misdemeanor or a felony drug possession
4729 offense;

4730 (iv) four years in the case of a class B misdemeanor; or

4731 (v) three years in the case of any other misdemeanor or infraction.

4732 (4) When determining whether to issue a certificate of eligibility, the bureau may not
4733 consider:

4734 (a) a petitioner's pending or previous:

4735 (i) infraction;

4736 (ii) traffic offense;

4737 (iii) minor regulatory offense; or

4738 (iv) clean slate eligible case that was automatically expunged in accordance with

4739 Section 77-40-114; or

4740 (b) a fine or fee related to an offense described in Subsection (4)(a).

4741 (5) The bureau may not issue a certificate of eligibility if, at the time the petitioner
4742 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
4743 including previously expunged convictions, contains any of the following, except as provided
4744 in Subsection (8):

4745 (a) two or more felony convictions other than for drug possession offenses, each of
4746 which is contained in a separate criminal episode;

4747 (b) any combination of three or more convictions other than for drug possession
4748 offenses that include two class A misdemeanor convictions, each of which is contained in a
4749 separate criminal episode;

4750 (c) any combination of four or more convictions other than for drug possession
4751 offenses that include three class B misdemeanor convictions, each of which is contained in a
4752 separate criminal episode; or

4753 (d) five or more convictions other than for drug possession offenses of any degree
4754 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

4755 (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner
4756 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
4757 including previously expunged convictions, contains any of the following:

4758 (a) three or more felony convictions for drug possession offenses, each of which is
4759 contained in a separate criminal episode; or

4760 (b) any combination of five or more convictions for drug possession offenses, each of
4761 which is contained in a separate criminal episode.

4762 (7) If the petitioner's criminal history contains convictions for both a drug possession
4763 offense and a non drug possession offense arising from the same criminal episode, that criminal
4764 episode shall be counted as provided in Subsection (5) if any non drug possession offense in
4765 that episode:

4766 (a) is a felony or class A misdemeanor; or

4767 (b) has the same or a longer waiting period under Subsection (3) than any drug
4768 possession offense in that episode.

4769 (8) If at least 10 years have elapsed from the date the petitioner was convicted or
4770 released from incarceration, parole, or probation, whichever occurred last, for all convictions,
4771 then each eligibility limit defined in Subsection (5) shall be increased by one.

4772 (9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board
4773 of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned
4774 crimes pursuant to Section [77-27-5.1](#).

4775 Section 105. Section **78A-2-214** is amended to read:

4776 **78A-2-214. Collection of accounts receivable.**

4777 (1) As used in this section:

4778 (a) "Accounts receivable" means any amount due the state from an entity for which
4779 payment has not been received by the state agency that is servicing the debt.

4780 (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments,
4781 fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third
4782 party claims, sale of goods, sale of services, claims, and damages.

4783 ~~[(2) If the Department of Corrections does not have responsibility under Subsection~~
4784 ~~[77-18-1](#)(9) for collecting an account receivable and if the Office of State Debt Collection does~~
4785 ~~not have responsibility under Subsection [63A-3-502](#)(6), the district court shall collect the~~
4786 ~~account receivable.]~~

4787 (2) If a defendant is sentenced before July 1, 2021, and the Department of Corrections,
4788 or the Office of State Debt Collection, is not responsible for collecting an accounts receivable
4789 for the defendant, the district court shall collect the accounts receivable for the defendant.

4790 (3) (a) In the juvenile court, money collected by the court from past-due accounts
4791 receivable may be used to offset system, administrative, legal, and other costs of collection.

4792 (b) The juvenile court shall allocate money collected above the cost of collection on a
4793 pro rata basis to the various revenue types that generated the accounts receivable.

4794 (4) The interest charge established by the Office of State Debt Collection under
4795 Subsection 63A-3-502(4)(g)(iii) may not be assessed on an account receivable subject to the
4796 postjudgment interest rate established by Section 15-1-4.

4797 Section 106. Section 78A-2-231 is amended to read:

4798 **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

4799 (1) As used in this section:

4800 (a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

4801 (b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

4802 (c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

4803 (d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

4804 (e) "Medical cannabis card" means the same as that term is defined in Section
4805 26-61a-102.

4806 (f) "Medical cannabis device" means the same as that term is defined in Section
4807 26-61a-102.

4808 (g) "Qualified medical provider" means the same as that term is defined in Section
4809 26-61a-102.

4810 (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner
4811 makes a finding, determination, or otherwise considers an individual's possession or use of
4812 medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or
4813 court commissioner may not consider or treat the individual's possession or use any differently
4814 than the lawful possession or use of any prescribed controlled substance if:

4815 (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production
4816 Establishments;

4817 (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

4818 (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah
4819 Medical Cannabis Act; and

4820 (ii) the individual reasonably complies with the directions of use and dosing guidelines
4821 determined by the individual's qualified medical provider or through a consultation described
4822 in Subsection [26-61a-502](#)(4) or (5).

4823 (3) Notwithstanding Sections [~~77-18-1~~] [77-18-105](#) and [77-2a-3](#), for probation, release,
4824 a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah
4825 Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual
4826 abstain from the use or possession of medical cannabis, a cannabis product, or a medical
4827 cannabis device, either directly or through a general prohibition on violating federal law,
4828 without an exception related to medical cannabis use, if the individual's use or possession
4829 complies with:

4830 (a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

4831 (b) Subsection [58-37-3.7](#)(2) or (3).

4832 Section 107. Section **78B-2-115** is amended to read:

4833 **78B-2-115. Actions by state or other governmental entity.**

4834 Except for the provisions of Section [78B-2-116](#), and the collection of criminal fines,
4835 fees, and restitution by the Office of State Debt Collection in accordance with [~~Section~~
4836 ~~[63A-3-502](#) and Title 77, Chapter 32a, Criminal Accounts Receivable and Defense Costs]~~
4837 ~~Sections [63A-3-502](#), [77-32b-103](#), and [77-18-114](#)~~, the limitations in this chapter apply to
4838 actions brought in the name of or for the benefit of the state or other governmental entity the
4839 same as to actions by private parties.

4840 Section 108. Section **78B-5-502** is amended to read:

4841 **78B-5-502. Definitions.**

4842 As used in this part:

4843 (1) "Civil accounts receivable" means the same as that term is defined in Section
4844 [77-32b-102](#).

4845 (2) "Civil judgment of restitution" means the same as that term is defined in Section

4846 [77-32b-102.](#)

4847 [~~(1)~~] (3) "Debt" means a legally enforceable monetary obligation or liability of an
4848 individual, whether arising out of contract, tort, or otherwise.

4849 [~~(2)~~] (4) "Dependent" means the spouse of an individual, and the grandchild or the
4850 natural or adoptive child of an individual who derives support primarily from that individual.

4851 [~~(3)~~] (5) "Exempt" means protected, and "exemption" means protection from
4852 subjection to a judicial process to collect an unsecured debt.

4853 [~~(4)~~] (6) "Judicial lien" means a lien on property obtained by judgment or other legal
4854 process instituted for the purpose of collecting an unsecured debt.

4855 [~~(5)~~] (7) "Levy" means the seizure of property pursuant to any legal process issued for
4856 the purpose of collecting an unsecured debt.

4857 [~~(6)~~] (8) "Lien" means a judicial, or statutory lien, in property securing payment of a
4858 debt or performance of an obligation.

4859 [~~(7)~~] (9) "Liquid assets" means deposits, securities, notes, drafts, unpaid earnings not
4860 otherwise exempt, accrued vacation pay, refunds, prepayments, and other receivables.

4861 [~~(8)~~] (10) "Security interest" means an interest in property created by contract to secure
4862 payment or performance of an obligation.

4863 [~~(9)~~] (11) "Statutory lien" means a lien arising by force of a statute, but does not
4864 include a security interest or a judicial lien.

4865 [~~(10)~~] (12) "Value" means fair market value of an individual's interest in property,
4866 exclusive of valid liens.

4867 Section 109. Section **78B-5-505** is amended to read:

4868 **78B-5-505. Property exempt from execution.**

4869 (1) (a) An individual is entitled to exemption of the following property:

4870 (i) a burial plot for the individual and the individual's family;

4871 (ii) health aids reasonably necessary to enable the individual or a dependent to work or
4872 sustain health;

4873 (iii) benefits that the individual or the individual's dependent have received or are

4874 entitled to receive from any source because of:

4875 (A) disability;

4876 (B) illness; or

4877 (C) unemployment;

4878 (iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the

4879 benefits are used by an individual or the individual's dependent to pay for that care;

4880 (v) veterans benefits;

4881 (vi) money or property received, and rights to receive money or property for child

4882 support;

4883 (vii) money or property received, and rights to receive money or property for alimony

4884 or separate maintenance, to the extent reasonably necessary for the support of the individual

4885 and the individual's dependents;

4886 (viii) (A) one:

4887 (I) clothes washer and dryer;

4888 (II) refrigerator;

4889 (III) freezer;

4890 (IV) stove;

4891 (V) microwave oven; and

4892 (VI) sewing machine;

4893 (B) all carpets in use;

4894 (C) provisions sufficient for 12 months actually provided for individual or family use;

4895 (D) all wearing apparel of every individual and dependent, not including jewelry or

4896 furs; and

4897 (E) all beds and bedding for every individual or dependent;

4898 (ix) except for works of art held by the debtor as part of a trade or business, works of

4899 art:

4900 (A) depicting the debtor or the debtor and the debtor's resident family; or

4901 (B) produced by the debtor or the debtor and the debtor's resident family;

4902 (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a
4903 result of bodily injury of the individual or of the wrongful death or bodily injury of another
4904 individual of whom the individual was or is a dependent to the extent that those proceeds are
4905 compensatory;

4906 (xi) the proceeds or benefits of any life insurance contracts or policies paid or payable
4907 to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or
4908 children of the debtor, provided that the contract or policy has been owned by the debtor for a
4909 continuous unexpired period of one year;

4910 (xii) the proceeds or benefits of any life insurance contracts or policies paid or payable
4911 to the spouse or children of the debtor or any trust of which the spouse or children are
4912 beneficiaries upon the death of the debtor, provided that the contract or policy has been in
4913 existence for a continuous unexpired period of one year;

4914 (xiii) proceeds and avails of any unexpired life insurance contracts owned by the
4915 debtor or any revocable grantor trust created by the debtor, excluding any payments made on
4916 the contract during the one year immediately preceding a creditor's levy or execution;

4917 (xiv) except as provided in Subsection (1)(b), and except for a judgment described in
4918 Subsection 75-7-503(2)(c), any money or other assets held for or payable to the individual as
4919 an owner, participant, or beneficiary from or an interest of the individual as an owner,
4920 participant, or beneficiary in a fund or account, including an inherited fund or account, in a
4921 retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a),
4922 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a
4923 participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or
4924 otherwise;

4925 (xv) the interest of or any money or other assets payable to an alternate payee under a
4926 qualified domestic relations order as those terms are defined in Section 414(p), Internal
4927 Revenue Code;

4928 (xvi) unpaid earnings of the household of the filing individual due as of the date of the
4929 filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family

4930 income for the household size of the filing individual as determined by the Utah State Annual
4931 Median Family Income reported by the United States Census Bureau and as adjusted based
4932 upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid
4933 earnings are paid more often than once a month or, if unpaid earnings are not paid more often
4934 than once a month, then in the amount of 1/12 of the Utah State annual median family income
4935 for the household size of the individual as determined by the Utah State Annual Median Family
4936 Income reported by the United States Census Bureau and as adjusted based upon the Consumer
4937 Price Index for All Urban Consumers;

4938 (xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of
4939 the following:

4940 (A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

4941 (B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

4942 (C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000
4943 rounds; and

4944 (xviii) money, not exceeding \$200,000, in the aggregate, that an individual deposits,
4945 more than 18 months before the day on which the individual files a petition for bankruptcy or
4946 an action is filed by a creditor against the individual, as applicable, in all tax-advantaged
4947 accounts for saving for higher education costs on behalf of a particular individual that meets
4948 the requirements of Section 529, Internal Revenue Code.

4949 (b) (i) Any money, asset, or other interest in a fund or account that is exempt from a
4950 claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does
4951 not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a
4952 direct transfer or eligible rollover to an inherited individual retirement account as defined in
4953 Section 408(d)(3), Internal Revenue Code.

4954 (ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement
4955 accounts without regard to the date on which the account was created.

4956 (c) (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

4957 (A) an alternate payee under a qualified domestic relations order, as those terms are

4958 defined in Section 414(p), Internal Revenue Code; or

4959 (B) amounts contributed or benefits accrued by or on behalf of a debtor within one year
4960 before the debtor files for bankruptcy, except amounts directly rolled over from other funds
4961 that are exempt from attachment under this section.

4962 (ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the
4963 secured creditor's interest in proceeds and avails of any matured or unmatured life insurance
4964 contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

4965 (2) (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans
4966 benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a ~~[child-victim]~~
4967 victim who is a child if the person receiving the benefits has been convicted of a felony sex
4968 offense against ~~[a-child]~~ the victim and ordered by the ~~[convicting]~~ sentencing court to pay
4969 restitution to the victim.

4970 (b) The exemption from execution under this ~~[section]~~ Subsection (2) shall be
4971 reinstated upon payment of the restitution in full.

4972 (3) ~~[Exemptions]~~ The exemptions under this section do not limit items that may be
4973 claimed as exempt under Section [78B-5-506](#).

4974 (4) (a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii),
4975 (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil
4976 judgment of restitution for an individual who is found in contempt under Section [78B-6-317](#).

4977 (b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if
4978 the individual's dependent received, or is entitled to receive, the benefits.

4979 Section 110. Section **78B-6-317** is amended to read:

4980 **78B-6-317. Willful failure to pay a civil accounts receivable or a civil judgment of**
4981 **restitution.**

4982 (1) As used in this section:

4983 (a) "Civil accounts receivable" means the same as that term is defined in Section
4984 [77-32b-102](#).

4985 (b) "Civil judgment of restitution" means the same as that term is defined in Section

4986 [77-32b-102.](#)

4987 (c) "Default" means the same as that term is defined in Section [77-32b-102.](#)

4988 (d) "Delinquent" means the same as that term is defined in Section [77-32b-102.](#)

4989 ~~[(1)]~~ (2) If a ~~[criminal judgment accounts receivable has become delinquent as defined~~
4990 ~~in Section [77-32a-101](#)]~~ civil accounts receivable or a civil judgment of restitution is delinquent
4991 or in default, the court, by motion of the ~~[prosecutor]~~ prosecuting attorney, a judgment creditor,
4992 ~~[the Office of State Debt Collection,]~~ or on the court's own motion, may order the defendant to
4993 appear and show cause why the delinquency or default should not be treated as contempt of
4994 court~~[, as provided in this section]~~ under this section.

4995 ~~[(2)]~~ (3) (a) The moving party or ~~[a court clerk]~~ a clerk of the court shall provide a
4996 declaration outlining:

4997 (i) the nature of the debt ~~[and the delinquency.];~~

4998 (ii) the way in which the civil accounts receivable or civil judgment of restitution is
4999 delinquent or in default;

5000 (iii) if the moving party is the Office of State Debt Collection, the attempts that have
5001 been made to collect the civil accounts receivable or the civil judgment of restitution before
5002 moving for an order to show cause; and

5003 (iv) if the moving party is not the Office of State Debt Collection, that the defendant
5004 has failed to comply with any payment agreement that the defendant has with the Office of
5005 State Debt Collection.

5006 (b) Upon receipt of ~~[that]~~ a declaration under Subsection (3)(a), the court shall:

5007 (i) set the matter for a hearing; and

5008 (ii) provide notice of the hearing to the defendant by mailing notice of the hearing to
5009 the defendant's last known address and by any other means the court finds likely to provide
5010 defendant notice of the hearing.

5011 ~~[(1)]~~ (c) If it appears to the court that the defendant is not likely to appear at the hearing,
5012 the court may issue an arrest warrant with a bail amount reasonably likely to guarantee the
5013 defendant's appearance.

5014 [(11)] (d) If the defendant is a corporation or an unincorporated association, the court
5015 shall cite the person authorized to make disbursement from the assets of the corporation or
5016 association to appear to answer for the alleged contempt.

5017 [(3)] (4) At the hearing, the defendant is entitled to be:

5018 (a) represented by counsel; and[;]

5019 (b) if the court is considering a period of incarceration as a potential sanction,
5020 appointed counsel [~~if the defendant is indigent~~] if the court determines that the defendant is
5021 indigent in accordance with Title 78B, Chapter 22, Indigent Defense Act.

5022 [(4)] (5) To find the defendant in contempt, the court shall find beyond a reasonable
5023 doubt that the defendant:

5024 (a) was aware of the obligation to pay the [~~criminal judgment accounts receivable~~] civil
5025 accounts receivable or the civil judgment of restitution;

5026 (b) had the capacity to [~~pay the criminal judgment accounts receivable in the manner~~
5027 ~~ordered by the court~~] make a payment towards the civil accounts receivable or the civil
5028 judgment of restitution; and

5029 (c) [~~did not make a good faith effort to make the payments~~] failed to make a payment
5030 towards the civil accounts receivable or the civil judgment of restitution.

5031 [(5)] (6) [H] Subject to the limitations in Subsections (7) through (9), if the court finds
5032 the defendant in contempt for nonpayment, the court may impose the sanctions for contempt
5033 [as provided in] under Section 78B-6-310[, ~~subject to the limitations in Subsections (6) through~~
5034 ~~(8)~~].

5035 [(6)] (7) If the court imposes a jail sanction for the contempt, the number of jail days
5036 may not exceed one day for each \$100 of the amount the court finds was contemptuously
5037 unpaid[~~, up to~~] with a maximum of:

5038 (a) five days for contempt arising from a class B misdemeanor or lesser offense[;]; and

5039 (b) 30 days for a class A misdemeanor or felony offense.

5040 [(7)] (8) (a) Any jail sanction imposed for contempt under this section shall serve to
5041 satisfy the [~~criminal judgment account receivable~~] civil accounts receivable at \$100 for each

5042 day served. [~~Amounts satisfied under this Subsection (7) may not include restitution amounts~~
5043 ~~ordered by the court in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act.]~~

5044 (b) Subsection (8)(a) does not apply to a civil judgment of restitution.

5045 [~~(8) Any financial penalty authorized by Section 78B-6-310 and ordered by the court~~
5046 ~~may only become due after the satisfaction of the original criminal account receivable.]~~

5047 (9) A financial penalty ordered by the court under Section 78B-6-310 may only become
5048 due after the satisfaction of the civil accounts receivable or the civil judgment of restitution.

5049 [~~(9)~~] (10) The order of the court finding the defendant in contempt and ordering
5050 sanctions is a final appealable order.

5051 Section 111. Section **78B-7-804** is amended to read:

5052 **78B-7-804. Sentencing and continuous protective orders for a domestic violence**
5053 **offense -- Modification.**

5054 (1) Before a perpetrator who has been convicted of a domestic violence offense may be
5055 placed on probation, the court shall consider the safety and protection of the victim and any
5056 member of the victim's family or household.

5057 (2) The court may condition probation or a plea in abeyance on the perpetrator's
5058 compliance with a sentencing protective order that includes:

5059 (a) an order enjoining the perpetrator from threatening to commit or committing acts of
5060 domestic violence against the victim or other family or household member;

5061 (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
5062 otherwise communicating with the victim, directly or indirectly;

5063 (c) an order requiring the perpetrator to stay away from the victim's residence, school,
5064 place of employment, and the premises of any of these, or a specified place frequented
5065 regularly by the victim or any designated family or household member;

5066 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm
5067 or other specified weapon;

5068 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or
5069 possesses; and

5070 (f) an order imposing any other condition necessary to protect the victim and any other
5071 designated family or household member or to rehabilitate the perpetrator.

5072 (3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence
5073 crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of
5074 continued acts of violence subsequent to the release of a perpetrator who is convicted of
5075 domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the
5076 issuance of continuous protective orders under this Subsection (3) because of the need to
5077 provide ongoing protection for the victim and to be consistent with the purposes of protecting
5078 victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter 38, Rights of
5079 Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

5080 (b) If a perpetrator is convicted of a domestic violence offense resulting in a sentence
5081 of imprisonment, including jail, that is to be served after conviction, the court shall issue a
5082 continuous protective order at the time of the conviction or sentencing limiting the contact
5083 between the perpetrator and the victim unless the court determines by clear and convincing
5084 evidence that the victim does not have a reasonable fear of future harm or abuse.

5085 (c) (i) The court shall notify the perpetrator of the right to request a hearing.

5086 (ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall
5087 hold the hearing at the time determined by the court. The continuous protective order shall be
5088 in effect while the hearing is being scheduled and while the hearing is pending.

5089 (d) A continuous protective order is permanent in accordance with this Subsection (3)
5090 and may include:

5091 (i) an order enjoining the perpetrator from threatening to commit or committing acts of
5092 domestic violence against the victim or other family or household member;

5093 (ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
5094 otherwise communicating with the victim, directly or indirectly;

5095 (iii) an order prohibiting the perpetrator from going to the victim's residence, school,
5096 place of employment, and the premises of any of these, or a specified place frequented
5097 regularly by the victim or any designated family or other household member;

5098 (iv) an order directing the perpetrator to pay restitution to the victim as may apply, and
5099 shall be enforced in accordance with Title 77, Chapter ~~38a~~ 38b, Crime Victims Restitution
5100 Act; and

5101 (v) any other order the court considers necessary to fully protect the victim and
5102 members of the victim's family or other household member.

5103 (4) A continuous protective order may be modified or dismissed only if the court
5104 determines by clear and convincing evidence that all requirements of Subsection (3) have been
5105 met and the victim does not have a reasonable fear of future harm or abuse.

5106 (5) In addition to the process of issuing a continuous protective order described in
5107 Subsection (3), a district court may issue a continuous protective order at any time if the victim
5108 files a petition with the court, and after notice and hearing the court finds that a continuous
5109 protective order is necessary to protect the victim.

5110 Section 112. **Repealer.**

5111 This bill repeals:

5112 Section **76-6-412.5, Property damage caused in the course of committing a theft.**

5113 Section **77-18-1, Suspension of sentence -- Pleas held in abeyance -- Probation --**
5114 **Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and**
5115 **conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic**
5116 **monitoring.**

5117 Section **77-18-6, Judgment to pay fine or restitution constitutes a lien.**

5118 Section **77-27-6, Payment of restitution.**

5119 Section **77-32a-102, Creation of criminal judgment account receivable.**

5120 Section **77-32a-103, Past due accounts or payments -- Authority to send to Office**
5121 **of State Debt Collection independent of probation status -- Expiration.**

5122 Section **77-32a-104, Delinquency and default as contempt of court.**

5123 Section **77-32a-105, Accounts with balances at termination of probation.**

5124 Section **77-32a-106, Transfer of collection responsibility does not affect probation.**

5125 Section **77-32a-108, Ability to pay considered.**

5126 Section [77-32a-109](#), **Petition for remission of payment of costs.**

5127 Section [77-38a-201](#), **Restitution determination -- Law enforcement duties and**

5128 **responsibilities.**

5129 Section [77-38a-202](#), **Restitution determination -- Prosecution duties and**

5130 **responsibilities.**

5131 Section [77-38a-203](#), **Restitution determination -- Department of Corrections --**

5132 **Presentence investigation.**

5133 Section [77-38a-301](#), **Restitution -- Convicted defendant may be required to pay.**

5134 Section [77-38a-302](#), **Restitution criteria.**

5135 Section [77-38a-401](#), **Entry of judgment -- Interest -- Civil actions -- Lien.**

5136 Section [77-38a-402](#), **Nondischargeability in bankruptcy.**

5137 Section [77-38a-403](#), **Civil action by victim for damages.**

5138 Section [77-38a-501](#), **Default and sanctions.**

5139 Section 113. **Effective date.**

5140 This bill takes effect on July 1, 2021.

5141 Section 114. **Coordinating H.B. 260 with H.B. 58 -- Substantive amendment.**

5142 If this H.B. 260 and H.B. 58, Riot Amendments, both pass and become law, the

5143 Legislature intends that on July 1, 2021, the Office of Legislative Research and General

5144 Counsel prepare the Utah Code database for publication by amending Subsection [76-9-101\(6\)](#)

5145 to read:

5146 "(6) The court shall order a defendant convicted under Subsection (4) to pay restitution

5147 in accordance with Section [77-38b-205](#)."

5148 Section 115. **Coordinating H.B. 260 with H.B. 290 -- Substantive amendments.**

5149 If this H.B. 260 and H.B. 290, Probation and Parole Amendments, both pass and

5150 become law, the Legislature intends that on July 1, 2021, the Office of Legislative Research

5151 and General Counsel prepare the Utah Code database for publication by:

5152 (1) amending Subsection [77-18-108\(2\)\(a\)](#) to read:

5153 "(2) (a) The court may modify the defendant's probation in accordance with the

5154 supervision length guidelines and the graduated and evidence-based responses and graduated
5155 incentives developed by the Utah Sentencing Commission under Section [63M-7-404](#)."; and
5156 (2) amending Subsection [77-18-108\(5\)\(a\)\(iii\)](#) to read:
5157 "(iii) in confinement awaiting a hearing or a decision concerning revocation of the
5158 defendant's probation constitutes service of time toward a term of incarceration imposed as a
5159 result of the revocation of probation or a graduated and evidence-based response imposed
5160 under the guidelines established by the Utah Sentencing Commission in accordance with
5161 Section [63M-7-404](#)."

5162 Section 116. **Coordinating H.B. 260 with H.B. 379 -- Substantive amendment.**

5163 If this H.B. 260 and H.B. 379, Board of Pardons Amendments, both pass and become
5164 law, the Legislature intends that on July 1, 2021, the Office of Legislative Research and
5165 General Counsel prepare the Utah Code database for publication by amending Subsection
5166 [77-27-5\(3\)](#) to read:

5167 "(3) (a) A decision by the board is final and not subject for judicial review if the
5168 decision is regarding:

- 5169 (i) a pardon, parole, commutation, or termination of an offender's sentence;
5170 (ii) the modification of an offender's payment schedule for restitution; or
5171 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

5172 (b) Deliberative processes are not public and the board is exempt from Title 52,
5173 Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's
5174 deliberative process.

5175 (c) Pursuant to Subsection [63G-2-103\(22\)\(b\)\(xi\)](#), records of the deliberative process
5176 are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

5177 (d) Unless it will interfere with a constitutional right, deliberative processes are not
5178 subject to disclosure, including discovery.

5179 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment
5180 [including restitution as provided in Section [77-27-6](#)]."