

1 **RESTITUTION AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: David Clark**

5 Senate Sponsor: Stephen H. Urquhart

7 **LONG TITLE**

8 **General Description:**

9 This bill allows a judgment ordering restitution under Section 77-38a-401 to only
10 expire upon payment in full.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ allows a judgment ordering restitution under Section 77-38a-401 to expire only
14 upon payment in full, when the judgment is entered on the civil judgment docket,
15 notwithstanding Sections 77-18-6 and 78B-5-202.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **77-38a-401**, as last amended by Laws of Utah 2009, Chapter 111

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

25 Section 1. Section **77-38a-401** is amended to read:

26 **77-38a-401. Entry of judgment -- Interest -- Civil actions -- Lien.**

27 (1) Upon the court determining that a defendant owes restitution, the clerk of the court
28 shall enter an order of complete restitution as defined in Section 77-38a-302 on the civil
29 judgment docket and provide notice of the order to the parties.

30 (2) The order shall be considered a legal judgment, enforceable under the Utah Rules
31 of Civil Procedure. In addition, the department may, on behalf of the person in whose favor the
32 restitution order is entered, enforce the restitution order as judgment creditor under the Utah
33 Rules of Civil Procedure.

34 (3) If the defendant fails to obey a court order for payment of restitution and the victim
35 or department elects to pursue collection of the order by civil process, the victim shall be
36 entitled to recover collection and reasonable attorney fees.

37 (4) Notwithstanding [~~Section~~] Subsection 77-18-6(1)(b)(v) and Sections 78B-2-311[;]
38 and 78B-5-202, a judgment ordering restitution when entered on the civil judgment docket
39 shall have the same affect and is subject to the same rules as a judgment in a civil action and
40 expires only upon payment in full, which includes applicable interest, collection fees, and
41 attorney fees. Interest shall accrue on the amount ordered from the time of sentencing,
42 including prejudgment interest. This Subsection (4) applies to all restitution judgments not
43 paid in full on or before May 12, 2009.

44 (5) The department shall make rules permitting the restitution payments to be credited
45 to principal first and the remainder of payments credited to interest in accordance with Title
46 63G, Chapter 3, Utah Administrative Rulemaking Act.