

1 **STATUTE OF LIMITATIONS FOR CRIMINAL FINES,**
2 **FEES, AND RESTITUTION**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Lyle W. Hillyard**

6 House Sponsor: Jack R. Draxler

8 **LONG TITLE**

9 **General Description:**

10 This bill provides that criminal fines, fees, and restitution payments never expire.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides that criminal judgment accounts receivable administered by the Office of
- 14 State Debt Collection do not expire;
- 15 ▶ creates an exception to the civil statute of limitations for criminal judgments
- 16 assigned by a court to the State Office of State Debt Collection; and
- 17 ▶ makes technical corrections.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **76-3-201.1**, as last amended by Laws of Utah 2013, Chapter 74

25 **78B-2-115**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

28 Section 1. Section **76-3-201.1** is amended to read:

29 **76-3-201.1. Collection of criminal judgment accounts receivable.**

30 (1) As used in this section:

31 ~~[(a) "Criminal judgment accounts receivable" means any amount due the state arising~~
32 ~~from a criminal judgment for which payment has not been received by the state agency that is~~
33 ~~servicing the debt.]~~

34 ~~[(b) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,~~
35 ~~surcharges, costs, interest, penalties, restitution to victims, third party claims, claims,~~
36 ~~reimbursement of a reward, and damages.]~~

37 (a) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
38 surcharges, costs, interest, penalties, restitution to victims, third party claims, claims,
39 reimbursement of a reward, and damages.

40 (b) "Criminal judgment accounts receivable" means any amount due the state arising
41 from a criminal judgment for which payment has not been received by the state agency that is
42 servicing the debt.

43 (2) (a) A criminal judgment account receivable ordered by the court as a result of
44 prosecution for a criminal offense may be collected by any means authorized by law for the
45 collection of a civil judgment.

46 (b) (i) The court may permit a defendant to pay a criminal judgment account receivable
47 in installments.

48 (ii) In the district court, if the criminal judgment account receivable is paid in
49 installments, the total amount due shall include all fines, surcharges, postjudgment interest, and
50 fees.

51 (c) Upon default in the payment of a criminal judgment account receivable or upon
52 default in the payment of any installment of that receivable, the criminal judgment account
53 receivable may be collected as provided in this section or Subsection 77-18-1(9) or (10), and by
54 any means authorized by law for the collection of a civil judgment.

55 (3) When a defendant defaults in the payment of a criminal judgment account
56 receivable or any installment of that receivable, the court, on motion of the prosecution, victim,
57 or upon its own motion may:

58 (a) order the defendant to appear and show cause why the default should not be treated
59 as contempt of court; or

60 (b) issue a warrant of arrest.

61 (4) (a) Unless the defendant shows that the default was not attributable to an
62 intentional refusal to obey the order of the court or to a failure to make a good faith effort to
63 make the payment, the court may find that the default constitutes contempt.

64 (b) Upon a finding of contempt, the court may order the defendant committed until the
65 criminal judgment account receivable, or a specified part of it, is paid.

66 (5) If it appears to the satisfaction of the court that the default is not contempt, the
67 court may enter an order for any of the following or any combination of the following:

68 (a) require the defendant to pay the criminal judgment account receivable or a specified
69 part of it by a date certain;

70 (b) restructure the payment schedule;

71 (c) restructure the installment amount;

72 (d) except as provided in Section 77-18-8, execute the original sentence of
73 imprisonment;

74 (e) start the period of probation anew;

75 (f) except as limited by Subsection (6), convert the criminal judgment account
76 receivable or any part of it to compensatory service;

77 (g) except as limited by Subsection (6), reduce or revoke the unpaid amount of the
78 criminal judgment account receivable; or

79 (h) in the court, record the unpaid balance of the criminal judgment account receivable
80 as a civil judgment and transfer the responsibility for collecting the judgment to the Office of
81 State Debt Collection.

82 (6) In issuing an order under this section, the court may not modify the amount of the
83 judgment of complete restitution.

84 (7) Whether or not a default constitutes contempt, the court may add to the amount
85 owed the fees established under Subsection 63A-3-502(4)(g) and postjudgment interest.

86 (8) (a) (i) If a criminal judgment account receivable is past due in a case supervised by
87 the Department of Corrections, the judge shall determine whether to record the unpaid balance
88 of the account receivable as a civil judgment.

89 (ii) If the judge records the unpaid balance of the account receivable as a civil
90 judgment, the judge shall transfer the responsibility for collecting the judgment to the Office of
91 State Debt Collection.

92 (b) If a criminal judgment account receivable in a case not supervised by the
93 Department of Corrections is past due, the court may, without a motion or hearing, record the
94 unpaid balance of the criminal judgment account receivable as a civil judgment and transfer the
95 responsibility for collecting the account receivable to the Office of State Debt Collection.

96 (c) If a criminal judgment account receivable in a case not supervised by the
97 Department of Corrections is more than 90 days past due, the district court shall, without a
98 motion or hearing, record the unpaid balance of the criminal judgment account receivable as a
99 civil judgment and transfer the responsibility for collecting the criminal judgment account
100 receivable to the Office of State Debt Collection.

101 (9) (a) When a fine, forfeiture, surcharge, cost permitted by statute, fee, or an order of
102 restitution is imposed on a corporation or unincorporated association, the person authorized to
103 make disbursement from the assets of the corporation or association shall pay the obligation
104 from those assets.

105 (b) Failure to pay the obligation may be held to be contempt under Subsection (3).

106 (10) The prosecuting attorney may collect restitution [~~in~~] on behalf of a victim.

107 (11) (a) Criminal judgment accounts receivable are not subject to civil statutes of
108 limitations and expire only upon payment in full.

109 (b) This Subsection (11) applies to all criminal judgment accounts receivable not paid
110 in full on or before May 12, 2015.

111 Section 2. Section **78B-2-115** is amended to read:

112 **78B-2-115. Actions by state or other governmental entity.**

113 Except for the provisions of Section **78B-2-116**, and the collection of criminal fines,

114 fees, and restitution by the Office of State Debt Collection in accordance with Sections
115 63A-3-502 and 76-3-201.1, the limitations in this chapter apply to actions brought in the name
116 of or for the benefit of the state or other governmental entity the same as to actions by private
117 parties.