

76-3-201 Definitions -- Sentences or combination of sentences allowed -- Civil penalties.

(1) As used in this section:

(a) "Conviction" includes a:

(i) judgment of guilt; ~~and~~

(ii) plea of guilty; ~~or no contest; or~~

(iii) plea of guilty or no contest held in abeyance pursuant to 77-2a-1 et seq.

(b) "Criminal activities" means any misdemeanor or felony offense ~~effor~~ which the defendant is convicted or any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.

(c) "Pecuniary damages" means all special damages, but not general damages, which a person could recover against the defendant in a civil action arising out of the facts or events constituting the defendant's criminal activities and includes the money equivalent of property taken, destroyed, broken, or otherwise harmed, and losses including earnings and medical expenses.

(d) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, and payment for expenses to a governmental entity for extradition or transportation and as further defined in Title 77, Chapter 38a, Crime Victims Restitution Act.

(e)

(i) "Victim" means any person or entity, including the Utah Office for Victims of Crime, who the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.

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

(2) Within the limits prescribed by this chapter, a court may sentence a person convicted of an offense to any one of the following sentences or combination of them:

(a) to pay a fine;

(b) to removal or disqualification from public or private office;

(c) to probation unless otherwise specifically provided by law;

(d) to imprisonment;

(e) on or after April 27, 1992, to life in prison without parole; or

(f) to death.

(3)

(a) This chapter does not deprive a court of authority conferred by law to:

(i) forfeit property;

(ii) dissolve a corporation;

(iii) suspend or cancel a license;

(iv) permit removal of a person from office;

(v) cite for contempt; or

(vi) impose any other civil penalty.

(b) A civil penalty may be included in a sentence.

(4)

(a) When a person is convicted of criminal activity, that has resulted in pecuniary damages, in addition to any other sentence it may impose, the court shall order that the defendant make restitution to the victims, or for conduct for which the defendant

has agreed to make restitution as part of a plea agreement.

(b) In determining whether restitution is appropriate, the court shall follow the criteria and procedures as provided in Title 77, Chapter 38a, Crime Victims Restitution Act.

(c) In addition to any other sentence the court may impose, the court, pursuant to the provisions of Sections 63M-7-503 and 77-38a-401, shall enter:

(i) a civil judgment for complete restitution for the full amount of expenses paid on behalf of the victim by the Utah Office for Victims of Crime; and

(ii) an order of restitution for restitution payable to the Utah Office for Victims of Crime in the same amount unless otherwise ordered by the court pursuant to Subsection (4)(d).

(d) In determining whether to order that the restitution required under Subsection (4)(c) be reduced or that the defendant be exempted from the restitution, the court shall consider the criteria under Subsections 77-38a-302(5)(c)(i) through (vi) and provide findings of its decision on the record.

(5)

(a) In addition to any other sentence the court may impose, and unless otherwise ordered by the court, the defendant shall pay restitution of governmental transportation expenses if the defendant was:

(i) transported pursuant to court order from one county to another within the state at governmental expense to resolve pending criminal charges;

(ii) charged with a felony or a class A, B, or C misdemeanor; and

(iii) convicted of a crime.

(b) The court may not order the defendant to pay restitution of governmental transportation expenses if any of the following apply:

(i) the defendant is charged with an infraction or on a subsequent failure to appear a warrant is issued for an infraction; or

(ii) the defendant was not transported pursuant to a court order.

(c)

(i) Restitution of governmental transportation expenses under Subsection (5)(a)(i) shall be calculated according to the following schedule:

(A) \$100 for up to 100 miles a defendant is transported;

(B) \$200 for 100 up to 200 miles a defendant is transported; and

(C) \$350 for 200 miles or more a defendant is transported.

(ii) The schedule of restitution under Subsection (5)(c)(i) applies to each defendant transported regardless of the number of defendants actually transported in a single trip.

(d) If a defendant has been extradited to this state under Title 77, Chapter 30, Extradition, to resolve pending criminal charges and is convicted of criminal activity in the county to which he has been returned, the court may, in addition to any other sentence it may impose, order that the defendant make restitution for costs expended by any governmental entity for the extradition.

(6)

(a) In addition to any other sentence the court may impose, and unless otherwise ordered by the court pursuant to Subsection (6)(c), the defendant shall pay restitution to the county for the cost of incarceration and costs of medical care provided to the defendant while in the county correctional facility before and after sentencing if:

- (i) the defendant is convicted of criminal activity that results in incarceration in the county correctional facility; and
- (ii)
 - (A) the defendant is not a state prisoner housed in a county correctional facility through a contract with the Department of Corrections; or
 - (B) the reimbursement does not duplicate the reimbursement provided under Section 64-13e-104 if the defendant is a state probationary inmate, as defined in Section 64-13e-102, or a state parole inmate, as defined in Section 64-13e-102.
- (b)
 - (i) The costs of incarceration under Subsection (6)(a) are the amount determined by the county correctional facility, but may not exceed the daily inmate incarceration costs and medical and transportation costs for the county correctional facility.
 - (ii) The costs of incarceration under Subsection (6)(a) do not include expenses incurred by the county correctional facility in providing reasonable accommodation for an inmate qualifying as an individual with a disability as defined and covered by the federal Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213, including medical and mental health treatment for the inmate's disability.
 - (c) In determining whether to order that the restitution required under this Subsection (6) be reduced or that the defendant be exempted from the restitution, the court shall consider the criteria under Subsections 77-38a-302(5)(c)(i) through (vi) and shall enter the reason for its order on the record.
 - (d) If on appeal the defendant is found not guilty of the criminal activity under Subsection (6)(a)(i) and that finding is final as defined in Section 76-1-304, the county shall reimburse the defendant for restitution the defendant paid for costs of incarceration under Subsection (6)(a).

(7) In addition to any other sentence the court may impose, the court shall determine whether costs are appropriate pursuant to Sections 77-32a-7.

77-32a76-3-201. Criminal Accounts Receivable

77-32a-1 Collection of criminal Definitions

As used in this chapter:

(a) "Criminal judgment accounts receivable" means any amount owed by a criminal defendant arising from a criminal judgment which has not been paid. This includes fines, surcharges, costs, interest, and restitution.

(1) As used in this section:

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

~~(b) "Criminal judgment accounts receivable" means any amount due the state arising from a criminal judgment for which payment has not been received by the state~~

~~agency that is servicing the debt.~~

~~(2)~~

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

~~(b)~~

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

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

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

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

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

~~(b) issue a warrant of arrest.~~

~~(4)~~

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

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

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

~~(a) (c) "Delinquent" means an account or installment payment that is overdue by more than 28 but less than ninety days.~~

~~(d) Default" means an account receivable that is overdue by at least ninety days.~~

77-32a-2 Creation of Criminal Judgment Account Receivable

(1) At the time of sentencing, acceptance of a plea in abeyance, the court shall establish the criminal accounts receivable, as determined by 76-3-201 including all amounts then owing, including as applicable, fines, fees, surcharges, costs, restitution and interest.

(2) Having created the account receivable, the Court:

a. Shall in the case of felonies where a prison sentence is imposed and not suspended, enter any unpaid~~require the defendant to pay the criminal judgment account receivable or a specified part of it by a date certain;~~

b. ~~restructure the payment schedule;~~

c. ~~restructure the installment amount;~~

- ~~(d) except as provided in Section 77-18-8, execute the original sentence of imprisonment;~~
- ~~(e) start the period of probation anew;~~
- ~~(f) except as limited by Subsection (6), convert the criminal judgment account receivable or any part of it to compensatory service;~~
- ~~(g) except as limited by Subsection (6), reduce or revoke the unpaid amount of the criminal judgment account receivable; or~~
- a. ~~(h) in the court, record the unpaid balance of the~~ criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the judgement to the Office of State Debt Collection;
 - b. May, in other cases, permit a defendant to pay the criminal judgment accounts receivable by a date certain or in installments;
 - i. The court may modify the amount and number of such delayed payments, as justice requires, at any time prior to the time for default as outlined in 77-32a-3(2).
 - c. In the district court, such delayed payment shall include post judgment interest;
 - d. May, in other cases, where the court finds that collection of the account by the court would not be feasible, enter any unpaid criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the judgement to the Office of State Debt Collection;
 - e. A court allowing installment payments does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.
- (3) If the court makes restitution or other financial decisions at a time after sentencing which increase the total amounts owed in a case, the criminal accounts receivable balance will be adjusted to include those new amounts.

77-32a-3 Past Due Accounts or Payments-Authority to Send to Office of State Debt, independent of Probation Status

- (1) If a criminal judgment account receivable retained by the court becomes more than 30 days past due, the court may, without a motion or a hearing record the unpaid balance of the account receivable as a civil judgment and transfer the responsibility for collecting the judgment to the Office of State Debt Collection.
- (2) ~~(6) In issuing an order under this section, the court may not modify the amount of the judgment of complete restitution.~~
- ~~(7) Whether or not a default constitutes contempt, the court may add to the amount owed the fees established under Subsection 63A-3-502(4)(g) and postjudgment interest.~~
- (8)
- (a)
 - ~~(i) If a criminal judgment account receivable is past due in a case supervised/retained by the Department of Corrections, the judge shall determine whether to record the unpaid balance of the account receivable as a civil judgment.~~

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

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

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

77-32a-(9)

(4 Delinquency and Default as Contempt of Court

- (3) If a) When a fine, forfeiture, surcharge, cost permitted by statute, fee criminal judgment accounts receivable, or any installment thereof, becomes delinquent, the court, upon motion of the prosecutor, a judgment creditor or upon its own motion may order the defendant to appear and show cause why the delinquency should not be treated as contempt of court, as provided in 78-6-317.
- (4) After the hearing, if it appears to the satisfaction of the court that the default is not contempt, the court may enter an order for any of the following or any combination of the following:
- a. require the defendant to pay the criminal judgment account receivable or a specified part of it by a date certain;
 - b. restructure the payment schedule;
 - c. restructure the installment amount;
 - d. except as limited by Subsection (4), satisfy the criminal judgment account receivable or any part of it with proof of compensatory service; at a rate of credit at not less than ten dollars for each hour of compensatory service;
 - e. except as limited by Subsection (4), reduce or revoke the unpaid amount of the criminal judgment account receivable; or
 - f. record the unpaid balance of the criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the judgment to the Office of State Debt Collection; and
 - g. add to the total accounts receivable postjudgment interest, if that had not previously been ordered or included.

- (5) If the court determines that the nonpayment does constitute contempt it shall address such contempt as authorized by 78B-6-317.
- (6) In issuing an order under this section, the court may not modify the amount of the judgment of complete restitution.
- (7) ~~of restitution is imposed~~ only if the Defendant is a corporation or unincorporated association, any contempt proceeding authorized by this section shall cite the person authorized to make disbursement from the assets of the corporation or association ~~shall pay the obligation from those assets.~~

~~(b) Failure to pay the obligation may be held to be contempt under Subsection (3).~~
~~(10)~~ **77-32a-5 Accounts with balances at Termination of Probation**

- (1) When a defendant successfully terminates probation and has a non-delinquent criminal judgment receivable account with an outstanding balance, the court shall retain that account and allow the defendant to continue paying the account off.
- (2) Should any such balance become delinquent or in default, the court shall take appropriate action pursuant to 77-32a-3 or 4.

77-32a-6 The prosecuting attorney may collect restitution ~~on~~in behalf of a victim.

[isn't this provided elsewhere??]

77-32a-(11)

- ~~(a) Criminal judgment accounts receivable are not subject to civil statutes of limitations and expire only upon payment in full.~~
- ~~(b) This Subsection (11) applies to all criminal judgment accounts receivable not paid in full on or before May 12, 2015.~~

77-32a-1 ~~Convicted defendant may be required to pay costs.~~

~~— In a criminal action the court may require a convicted defendant to pay costs.~~

7

77-32a-2 **Costs -- What constitute.**

Costs shall be limited to expenses specially incurred by the state or any political subdivision in investigating, searching for, apprehending, and prosecuting the defendant, including attorney fees of counsel assigned to represent the defendant, ~~interpreter fees,~~ and investigators' fees. Costs cannot include expenses inherent in providing a constitutionally guaranteed trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Costs cannot include attorneys' fees for prosecuting attorneys.

77-32a-38 Ability to pay considered.

The court shall not include in the judgment a sentence that a defendant pay costs unless the defendant is or will be able to pay them. In determining the amount ~~and method of payment~~ of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose and that restitution be the first priority.

77-32a-49 Petition for remission of payment of costs.

A defendant who has been ~~sentenced~~ordered to pay costs and who is not ~~incontumacious default~~delinquent in the payment thereof may at any time petition the court which sentenced him ~~for remission of the payment of costs or of to reduce~~ any unpaid ~~portion thereof~~amount of those costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or his immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment under Section 77-32a-~~54~~.

~~77-32a-5 Time and method of payment.~~

~~When a defendant is sentenced to pay costs, the court may grant permission for payment to be made within a specified period of time or in specified installments. If no such permission is included in the sentence the costs shall be payable forthwith.~~

~~77-32a-6 Payment as condition of probation or suspended sentence.~~

~~When a defendant sentenced to pay costs is also placed on probation or imposition or execution of sentence is suspended, the court may make payment of costs a condition of probation or suspension of sentence.~~

~~77-32a-7 Default in payment as contempt -- Order to show cause -- Warrant of arrest.~~

~~When a defendant sentenced to pay costs defaults in the payment thereof or of any installment, the court on motion of the attorney general or the county attorney or upon its own motion may require him to show cause why his default should not be treated as contempt of court, and may issue an order to show cause or a warrant of arrest for his appearance.~~

~~77-32a-8 Default in payment as contempt -- What constitutes contempt -- Imprisonment.~~

~~Unless the defendant shows that his default was not attributable to an intentional~~

~~refusal to obey the order of the court or to a failure on his part to make a good faith effort to make the payment, the court may find that his default constitutes contempt and may order him committed until the costs or a specified part thereof, are paid.~~

~~**77-32a-9 Costs imposed on corporation or association -- Duty to pay -- Contempt.**~~

~~When costs are imposed on a corporation or unincorporated association, it is the duty of the person authorized to make disbursement from the assets of the corporation or association to pay the costs from those assets, and his failure to do so may be held to be contempt unless he makes the showing required in Section 77-32a-8 of this act.~~

~~**77-32a-10 Imprisonment for contempt -- Limitations.**~~

~~The term of imprisonment for contempt for nonpayment of costs shall be set forth in the commitment order, and shall not exceed one day for each \$25 of the costs, 30 days if the costs were imposed upon conviction of a misdemeanor, or six months in the case of a felony, whichever is the shorter period. A person committed for nonpayment of costs shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment order.~~

~~**77-32a-11 Default not constituting contempt -- Relief allowed.**~~

~~If it appears to the satisfaction of the court that the default in the payment of costs is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment or revoking the costs or the unpaid portion thereof in whole or in part.~~

~~**77-32a-12 Collection of payment in default -- Execution.**~~

~~A default in the payment of costs or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of costs shall not discharge a defendant committed to imprisonment for contempt until the amount of the costs has actually been collected.~~

~~**77-32a-13 Docketing judgment for costs.**~~

~~A judgment that the defendant pay costs may be docketed in the same manner as a judgment in a civil action.~~

~~77-32a-14~~ Verified statement of time and expenses of counsel for indigent defendants.

The court may require a verified statement of time and expenses from appointed counsel or the nonprofit legal aid or other association providing counsel to convicted indigent defendants in order to establish the costs, if any, which will be included in the judgment.

78-6-317 Willful failure to Pay Criminal judgment Accounts Receivable

- (1) If a criminal judgment accounts receivable has become delinquent as defined in 77-32a-1, the court, by motion of the prosecutor, a judgment creditor, the State Office of Debt Collection, or on its own motion, may order the defendant to appear and show cause why the delinquency should not be treated as contempt of court, as provided in this section.
- (2)
 - a. The moving party, or a court clerk shall provide a declaration outlining the nature of the debt and the delinquency.
 - b. Upon receipt of that declaration, the Court shall set the matter for a hearing, and mail notice to the defendant's last known address, and by any other means the court finds likely to provide defendant notice of the hearing.
 - i. If it appears to the court that defendant is not likely to appear at the hearing, the court may issue an arrest warrant with a bail amount reasonably likely to guarantee the defendants appearance.
 - ii. If the defendant is a corporation or an unincorporated association, the court shall cite the person authorized to make disbursement from the assets of the corporation or association to appear to answer for the alleged contempt.
- (3) At the hearing, the defendant is entitled to be represented by counsel, and if the court is considering a period of incarceration as a potential sanction, appointed counsel if the defendant is indigent.
- (4) To find the defendant in contempt, the court must find beyond a reasonable doubt that the defendant:
 - a. was aware of the obligation to pay the criminal judgment accounts receivable;
 - b. had the capacity to
 - i. pay the criminal accounts receivable in the manner ordered by the court; or

(7) "Plea agreement" means an agreement entered between the prosecution and defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

(8) "Plea disposition" means an agreement entered into between the prosecution and defendant including diversion, plea agreement, plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

(9) "Plea in abeyance" means an order by a court, upon motion of the prosecution and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against him nor imposing sentence upon him on condition that he comply with specific conditions as set forth in a plea in abeyance agreement.

(10) "Plea in abeyance agreement" means an agreement entered into between the prosecution and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

(11) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, including prejudgment interest, the accrual of interest from the time of sentencing, insured damages, reimbursement for payment of a reward, and payment for expenses to a governmental entity for extradition or transportation and as may be further defined by law.

(12)

(a) "Reward" means a sum of money:

(i) offered to the public for information leading to the arrest and conviction of an offender; and

(ii) that has been paid to a person or persons who provide this information, except that the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.

(b) "Reward" does not include any amount paid in excess of the sum offered to the public.

(13) "Screening" means the process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted.

(14)

(a) "Victim" means any person or entity, including the Utah Office for Victims of Crime, who the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.

(b) "Victim" may not include a codefendant or accomplice.