

CRIMINAL JUSTICE REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes in the handling of criminal judgment accounts receivable and probation and parole violations.

Highlighted Provisions:

This bill:

- ▶ requires a court to determine reasonable monthly payments for criminal judgment accounts receivables;
- ▶ with the exception of restitution, allows a court or the Board of Pardons and Parole to reduce or waive the remainder of an account receivable after the defendant has made at least 12 monthly payments;
- ▶ provides that the Office of State Debt Collection shall pause collection of and interest accrual on a criminal judgment account receivable while a defendant is incarcerated;
- ▶ allows a defendant under certain circumstances to petition the court, Board of Pardons and Parole, or the Office of State Debt Collection to defer, reduce, or waive all or part of an amount due;
- ▶ requires quarterly reports to the Commission on Criminal and Juvenile Justice from jails regarding the number of inmates who are incarcerated for technical violations of probation and parole;
- ▶ requires the Department of Corrections to report to the Commission on Criminal



and Juvenile Justice quarterly the number of probation and parole violations resulting in revocations;

- requires the Division of Substance Abuse and Mental Health to collect data regarding behavioral health providers for criminal justice involved individuals; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-32, as last amended by Laws of Utah 2019, Chapter 311

62A-15-103, as last amended by Laws of Utah 2019, Chapters 110, 440, and 441

62A-15-625, as last amended by Laws of Utah 2018, Chapter 322

63A-3-502, as last amended by Laws of Utah 2017, Chapters 56 and 304

63M-7-404, as last amended by Laws of Utah 2018, Chapter 334

64-13-21, as last amended by Laws of Utah 2019, Chapter 27

76-3-202, as last amended by Laws of Utah 2018, Chapter 334

77-18-1, as last amended by Laws of Utah 2019, Chapters 28 and 429

77-27-5, as last amended by Laws of Utah 2019, Chapter 148

77-32a-102, as last amended by Laws of Utah 2018, Chapters 136 and 281

77-32a-105, as enacted by Laws of Utah 2017, Chapter 304

77-38a-501, as last amended by Laws of Utah 2017, Chapter 304

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

Section 1. Section **17-22-32** is amended to read:

17-22-32. County jail reporting requirements.

(1) As used in this section:

(a) (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of a county jail.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

(A) being transported for medical care; or

(B) receiving medical care outside of a county jail.

(b) "Inmate" means an individual who is processed or booked into custody or housed in a county jail in the state.

(c) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) A county jail shall submit a report to the Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, before June 15 of each year that includes:

(a) the number of in-custody deaths that occurred during the preceding calendar year;

(b) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(a);

(c) the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death;

(d) the county jail policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;

(ii) that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use or mental health disorder; and

(e) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) Each county jail shall report quarterly to the Commission on Criminal and Juvenile Justice:

(a) the number and proportion of the population of supervision violators in jail; and

(b) the number of days spent in jail by supervision violators.

~~[(3)]~~ (4) The Commission on Criminal and Juvenile Justice shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law; and

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim

Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year.

~~[(4)]~~ (5) The Commission on Criminal and Juvenile Justice may not provide access to or use a county jail's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

Section 2. Section **62A-15-103** is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) (a) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) except as provided in Section **62A-15-103.5**, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

121 (viii) evaluate the effectiveness of programs described in this Subsection (2);
122 (ix) consider the impact of the programs described in this Subsection (2) on:
123 (A) emergency department utilization;
124 (B) jail and prison populations;
125 (C) the homeless population; and
126 (D) the child welfare system; ~~and~~
127 (x) promote or establish programs for education and certification of instructors to
128 educate persons convicted of driving under the influence of alcohol or drugs or driving with
129 any measurable controlled substance in the body;
130 (b) (i) collect and disseminate information pertaining to mental health;
131 (ii) provide direction over the state hospital including approval of its budget,
132 administrative policy, and coordination of services with local service plans;
133 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
134 Rulemaking Act, to educate families concerning mental illness and promote family
135 involvement, when appropriate, and with patient consent, in the treatment program of a family
136 member; and
137 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
138 Rulemaking Act, to direct that an individual receiving services through a local mental health
139 authority or the Utah State Hospital be informed about and, if desired by the individual,
140 provided assistance in the completion of a declaration for mental health treatment in
141 accordance with Section [62A-15-1002](#);
142 (c) (i) consult and coordinate with local substance abuse authorities and local mental
143 health authorities regarding programs and services;
144 (ii) provide consultation and other assistance to public and private agencies and groups
145 working on substance abuse and mental health issues;
146 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
147 medical and social agencies, public health authorities, law enforcement agencies, education and
148 research organizations, and other related groups;
149 (iv) promote or conduct research on substance abuse and mental health issues, and
150 submit to the governor and the Legislature recommendations for changes in policy and
151 legislation;

152 (v) receive, distribute, and provide direction over public funds for substance abuse and
153 mental health services;

154 (vi) monitor and evaluate programs provided by local substance abuse authorities and
155 local mental health authorities;

156 (vii) examine expenditures of local, state, and federal funds;

157 (viii) monitor the expenditure of public funds by:

158 (A) local substance abuse authorities;

159 (B) local mental health authorities; and

160 (C) in counties where they exist, a private contract provider that has an annual or
161 otherwise ongoing contract to provide comprehensive substance abuse or mental health
162 programs or services for the local substance abuse authority or local mental health authority;

163 (ix) contract with local substance abuse authorities and local mental health authorities
164 to provide a comprehensive continuum of services that include community-based services for
165 individuals involved in the criminal justice system, in accordance with division policy, contract
166 provisions, and the local plan;

167 (x) contract with private and public entities for special statewide or nonclinical
168 services, or services for individuals involved in the criminal justice system, according to
169 division rules;

170 (xi) review and approve each local substance abuse authority's plan and each local
171 mental health authority's plan in order to ensure:

172 (A) a statewide comprehensive continuum of substance abuse services;

173 (B) a statewide comprehensive continuum of mental health services;

174 (C) services result in improved overall health and functioning;

175 (D) a statewide comprehensive continuum of community-based services designed to
176 reduce criminal risk factors for individuals who are determined to have substance abuse or
177 mental illness conditions or both, and who are involved in the criminal justice system;

178 (E) compliance, where appropriate, with the certification requirements in Subsection
179 (2)(j); and

180 (F) appropriate expenditure of public funds;

181 (xii) review and make recommendations regarding each local substance abuse
182 authority's contract with the local substance abuse authority's provider of substance abuse

programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate; ~~and~~

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

214 (C) a substance use disorder and a mental health disorder;
215 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
216 adult as a peer support specialist;
217 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
218 Rulemaking Act, that:
219 (A) establish training and certification requirements for a peer support specialist;
220 (B) specify the types of services a peer support specialist is qualified to provide;
221 (C) specify the type of supervision under which a peer support specialist is required to
222 operate; and
223 (D) specify continuing education and other requirements for maintaining or renewing
224 certification as a peer support specialist; ~~and~~
225 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
226 Rulemaking Act, that:
227 (A) establish the requirements for a person to be certified to carry out, as needed, the
228 division's duty to train and certify an adult as a peer support specialist; and
229 (B) specify how the division shall provide oversight of a person certified to train and
230 certify a peer support specialist;
231 (i) except as provided in Section [62A-15-103.5](#), establish by rule, in accordance with
232 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and
233 requirements for the provision of substance use disorder and mental health treatment to an
234 individual who is incarcerated or who is required to participate in treatment by a court or by the
235 Board of Pardons and Parole, including:
236 (i) collaboration with the Department of Corrections and the Utah Substance Use and
237 Mental Health Advisory Council to develop and coordinate the standards, including standards
238 for county and state programs serving individuals convicted of class A and class B
239 misdemeanors;
240 (ii) determining that the standards ensure available treatment, including the most
241 current practices and procedures demonstrated by recognized scientific research to reduce
242 recidivism, including focus on the individual's criminal risk factors; and
243 (iii) requiring that all public and private treatment programs meet the standards
244 established under this Subsection (2)(i) in order to receive public funds allocated to the

division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the Department of Health, who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; [and]

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(iii) collect data that includes:

(A) a list of certified behavioral health providers for criminal justice involved individuals by Adult Probation and Parole region and services offered;

(B) the number of criminal justice involved individuals served by the division, by behavioral treatment type;

(C) the average wait time for behavioral health treatment, by treatment type; and

(D) the percentage of criminal justice involved individuals completing or failing division programming, by behavioral treatment type, and completing supervision successfully; and

(iv) require all substance abuse authorities and mental health authorities receiving public funds to report data regarding criminal justice involved individuals, to include the federal treatment episode data set;

(m) in the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i); [and]

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees; and

(o) submit the data collected under Subsections (2)(l)(iii) and (2)(l)(iv) quarterly to the Commission on Criminal and Juvenile Justice.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a

Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

- (i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:
 - (A) information on safe handling, storage, and use of firearms in a home environment;
 - (B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;
 - (C) information about suicide prevention awareness; and
 - (D) information about the availability of firearm safety packets;
- (ii) procure cable-style gun locks for distribution pursuant to this section;
- (iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and
- (iv) create a suicide prevention education course that:
 - (A) provides information for distribution regarding firearm safety education;
 - (B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and
 - (C) provides information regarding crisis intervention resources;
- (b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:
 - (i) health care providers, including emergency rooms;
 - (ii) mobile crisis outreach teams;
 - (iii) mental health practitioners;
 - (iv) other public health suicide prevention organizations;
 - (v) entities that teach firearm safety courses;
 - (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and
 - (vii) firearm dealers to be distributed in accordance with Section 76-10-526;
- (c) creating and administering a redeemable coupon program described in this Subsection (3) and Section 76-10-526 that includes:
 - (i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase

price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident who has filed an application for a concealed firearm permit; and

(ii) collecting the receipts described in Section 76-10-526 from the participating dealers and persons and reimbursing the dealers and persons;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the redeemable coupon program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the

state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 3. Section **62A-15-625** is amended to read:

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

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

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

(3) An adult may be voluntarily admitted to a local mental health authority for treatment at the Utah State Hospital as a condition of probation or stay of sentence only after the requirements of Subsection ~~77-18-1(13)~~(14) have been met.

Section 4. Section **63A-3-502** is amended to read:

63A-3-502. Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with the requirements of this chapter and any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

(e) provide information, training, and technical assistance to each state agency on various collection-related topics;

(f) write an inclusive receivables management and collection manual for use by each state agency;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an

effective accounts receivable program;

(j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

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

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or its designee;

(o) be a real party in interest for an account receivable referred to the office by any state agency or for any restitution to victims referred to the office by a court; and

(p) allocate money collected for judgments registered under Section 77-18-6 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110.

(4) The office may:

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

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

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

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

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

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

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

(f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial disclosure form described in Section 77-38a-204;

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

(i) a fee to cover the administrative costs of collection, on accounts administered by the office;

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

(iii) an interest charge that is:

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

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

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

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

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

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

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

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record;

(m) enter into written agreements with other governmental agencies to obtain information for the purpose of collecting state accounts receivable and restitution for victims; and

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

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor as referred to in

Subsection (4)(l):

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

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

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

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

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

(6) (a) The office shall collect accounts receivable ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Section [77-32a-102](#). The office shall suspend collection of the accounts and the accrual of interest during a defendant's period of incarceration for the offense, and may not begin or restart collection until 180 days after a defendant is released from incarceration.

(b) The office may not assess the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section [15-1-4](#).

(c) A defendant who has been ordered to pay the balance of their account receivable and who is not more than three months delinquent in the payment may, at any time, petition the office to reduce any unpaid portion of that obligation. If it appears to the satisfaction of the office that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the office may remit or defer all or part of the amount due, or modify the method of payment under Section [77-32a-104](#).

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or its designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report their receivables;

(d) develop and implement internal policies and procedures that comply with the

collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of its receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) All interest, fees, and other amounts authorized to be charged by the office under Subsection (4):

(a) are penalties that may be charged by the office; and

(b) are not compensation for actual pecuniary loss.

Section 5. Section **63M-7-404** is amended to read:

63M-7-404. Purpose -- Duties.

(1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

(i) respond to public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in criminal sentencing;

(iv) better define responsibility in criminal sentencing; and

(v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority; and

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole.

(2) (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) The guidelines shall consider the seriousness of the violation of the conditions of probation, the probationer's conduct while on probation, and the probationer's criminal history.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) The guidelines shall consider the seriousness of the violation of the conditions of parole, the individual's conduct while on parole, and the individual's criminal history.

(6) The commission shall establish graduated sanctions to facilitate the prompt and effective response to an individual's violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections in order to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism, including:

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

(b) when violations should be reported to the court or the Board of Pardons and Parole;

and

(c) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

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

(b) positive conduct that exceeds those terms.

(8) (a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:

(i) nonjudicially adjusted;

(ii) placed on diversion;

(iii) placed on probation;

(iv) placed on community supervision;

(v) placed in an out-of-home placement; or

(vi) placed in a secure care facility.

(b) In establishing guidelines under this Subsection (8), the commission shall consider:

(i) the seriousness of the negative and positive behavior;

(ii) the juvenile's conduct post-adjudication; and

(iii) the delinquency history of the juvenile.

(c) The guidelines shall include:

(i) responses that are swift and certain;

(ii) a continuum of community-based options for juveniles living at home;

(iii) responses that target the individual's criminogenic risk and needs; and

(iv) incentives for compliance, including earned discharge credits.

(9) The commission shall establish supervision length guidelines in accordance with this section before October 1, 2018.

(10) The commission shall develop guidelines for the Board of Pardons and Parole and the judiciary to appropriately respond to technical violations of supervision conditions, including discouraging the imposition of prison sanctions for technical violations and low-level new offenses. The guidelines should ensure that incarceration is used sparingly and only when

an offender poses a substantial threat to public safety that cannot be addressed through the graduated sanctions established in Subsection (6).

Section 6. Section **64-13-21** is amended to read:

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

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

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

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

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

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

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

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

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and

procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated sanctions and incentives, and offenders' outcomes.

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

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

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

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

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

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

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

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

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

(b) The program shall provide that an offender earns a reduction credit of 30 days from

the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

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

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

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

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

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

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

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

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

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

(g) The department shall report quarterly to the Commission on Criminal and Juvenile Justice:

(i) incentives and sanctions used for each person on supervision;

(ii) technical violations leading to a revocation, by judicial district; and

(iii) the number of supervision terminations requested and the proportion of those

requests that were granted, by judicial district.

Section 7. Section **76-3-202** is amended to read:

76-3-202. Paroled individuals -- Termination or discharge from sentence -- Time served on parole -- Discretion of Board of Pardons and Parole.

(1) Every individual committed to the state prison to serve an indeterminate term and, after December 31, 2018, released on parole shall complete a term of parole that extends through the expiration of the individual's maximum sentence unless the parole is earlier terminated by the Board of Pardons and Parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section [63M-7-404](#), as described in Subsection [77-27-5\(7\)](#), to the extent the guidelines are consistent with the requirements of the law.

(2) (a) Except as provided in Subsection (2)(b), every individual committed to the state prison to serve an indeterminate term and released on parole on or after October 1, 2015, but before January 1, 2019, shall, upon completion of three years on parole outside of confinement and without violation, be terminated from the individual's sentence unless the parole is earlier terminated by the Board of Pardons and Parole or is terminated pursuant to Section [64-13-21](#).

(b) Every individual committed to the state prison to serve an indeterminate term and later released on parole on or after July 1, 2008, but before January 1, 2019, and who was convicted of any felony offense under Title 76, Chapter 5, Offenses Against the Person, or any attempt, conspiracy, or solicitation to commit any of these felony offenses, shall complete a term of parole that extends through the expiration of the individual's maximum sentence, unless the parole is earlier terminated by the Board of Pardons and Parole.

(3) Every individual convicted of a second degree felony for violating Section [76-5-404](#), forcible sexual abuse, or [76-5-404.1](#), sexual abuse of a child and aggravated sexual abuse of a child, or attempting, conspiring, or soliciting the commission of a violation of any of those sections, and who is paroled before July 1, 2008, shall, upon completion of 10 years parole outside of confinement and without violation, be terminated from the sentence unless the individual is earlier terminated by the Board of Pardons and Parole.

(4) An individual who violates the terms of parole, while serving parole, for any offense under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and Parole be recommitted to prison to serve the portion of the balance of the term as determined

by the Board of Pardons and Parole, but not to exceed the maximum term.

(5) An individual paroled following a former parole revocation may not be discharged from the individual's sentence until:

(a) the individual has served the applicable period of parole under this section outside of confinement;

(b) the individual's maximum sentence has expired; or

(c) the Board of Pardons and Parole orders the individual to be discharged from the sentence.

(6) (a) All time served on parole, outside of confinement and without violation, constitutes service toward the total sentence.

(b) Any time an individual spends outside of confinement after commission of a parole violation does not constitute service toward the total sentence unless the individual is exonerated at a parole revocation hearing.

(c) (i) Any time an individual spends in confinement awaiting a hearing before the Board of Pardons and Parole or a decision by the board concerning revocation of parole constitutes service toward the total sentence.

(ii) In the case of exoneration by the board, the time spent is included in computing the total parole term.

(7) When a parolee causes the parolee's absence from the state without authority from the Board of Pardons and Parole or avoids or evades parole supervision, the period of absence, avoidance, or evasion tolls the parole period.

(8) (a) While on parole, time spent in confinement outside the state may not be credited toward the service of any Utah sentence.

(b) Time in confinement outside the state or in the custody of any tribal authority or the United States government for a conviction obtained in another jurisdiction tolls the expiration of the Utah sentence.

(9) This section does not preclude the Board of Pardons and Parole from paroling or discharging an inmate at any time within the discretion of the Board of Pardons and Parole unless otherwise specifically provided by law.

(10) At the successful termination of parole, or after 12 timely payments, the Board of Pardons and Parole may waive the remaining balance of a defendant's criminal judgment

772 account receivable, with the exception of restitution.

773 ~~[(10)]~~ (11) A parolee sentenced to lifetime parole may petition the Board of Pardons
774 and Parole for termination of lifetime parole.

775 Section 8. Section **77-18-1** is amended to read:

776 **77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation --**
777 **Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and**
778 **conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic**
779 **monitoring.**

780 (1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea
781 in abeyance agreement, the court may hold the plea in abeyance as provided in Chapter 2a,
782 Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

783 (2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any
784 crime or offense, the court may, after imposing sentence, suspend the execution of the sentence
785 and place the defendant:

786 (i) on probation under the supervision of the Department of Corrections except in cases
787 of class C misdemeanors or infractions;

788 (ii) on probation under the supervision of an agency of local government or with a
789 private organization; or

790 (iii) on court probation under the jurisdiction of the sentencing court.

791 (b) (i) The legal custody of all probationers under the supervision of the department is
792 with the department.

793 (ii) The legal custody of all probationers under the jurisdiction of the sentencing court
794 is vested as ordered by the court.

795 (iii) The court has continuing jurisdiction over all probationers.

796 (iv) Court probation may include an administrative level of services, including
797 notification to the court of scheduled periodic reviews of the probationer's compliance with
798 conditions.

799 (c) Supervised probation services provided by the department, an agency of local
800 government, or a private organization shall specifically address the offender's risk of
801 reoffending as identified by a validated risk and needs screening or assessment.

802 (3) (a) The department shall establish supervision and presentence investigation

standards for all individuals referred to the department based on:

- (i) the type of offense;
- (ii) the results of a risk and needs assessment;
- (iii) the demand for services;
- (iv) the availability of agency resources;
- (v) public safety; and
- (vi) other criteria established by the department to determine what level of services

shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of an individual convicted of a class B or C misdemeanor or an infraction or to conduct presentence investigation reports on a class C misdemeanor or infraction. However, the department may supervise the probation of a class B misdemeanor in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

- (i) a victim impact statement according to guidelines set in Section [77-38a-203](#) describing the effect of the crime on the victim and the victim's family;
- (ii) a specific statement of pecuniary damages, accompanied by a recommendation

from the department regarding the payment of restitution with interest by the defendant in accordance with Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that a defendant perform any or all of the following:

(a) provide for the support of others for whose support the defendant is legally liable;

(b) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(c) if on probation for a felony offense, serve a period of time, not to exceed one year,

in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(d) serve a term of home confinement, which may include the use of electronic monitoring;

(e) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(f) pay for the costs of investigation, probation, and treatment services;

(g) make restitution or reparation to the victim or victims with interest in accordance with Chapter 38a, Crime Victims Restitution Act; and

(h) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with ~~Subsection~~ Section 77-27-6~~(4)~~; and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection ~~(10)~~ (11).

(10) The court may, at any point during the course of probation and after 12 timely payments, waive the remainder of the accounts receivable as defined in Section 77-32a-101, with the exception of restitution, along with interest and any costs assessed under Section 64-13-21.

~~(10)~~ (11) (a) (i) Except as provided in Subsection ~~(10)~~ (11)(a)(ii), probation of an individual placed on probation after December 31, 2018:

(A) may not exceed the individual's maximum sentence;

(B) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(C) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(ii) Probation of an individual placed on probation after December 31, 2018, whose

maximum sentence is one year or less may not exceed 36 months.

(iii) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(b) (i) If, upon expiration or termination of the probation period under Subsection ~~[(10)]~~ (11)(a), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable, or may waive the remainder of the unpaid balance, with the exception of restitution. If the court does not waive the remainder and retains jurisdiction for ~~[this limited]~~ the purpose of enforcing payment, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection ~~[(10)]~~ (11).

(ii) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not waived by the court and not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(c) (i) The department shall notify the court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

~~[(11)]~~ (12) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term

unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

~~[(12)]~~ (13) (a) (i) Probation may be modified as is consistent with the supervision length guidelines and the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(ii) The length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(iii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with ~~[Section 78B-5-705]~~ Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, alleging with particularity facts asserted to constitute violation of the conditions of probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(ii) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(iii) (A) Except as provided in Subsection ~~[(10)]~~ (11)(a)(ii), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(B) Except as provided in Subsection ~~[(10)]~~ (11)(a)(ii), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves, relating to the same sentence, may not exceed the defendant's maximum sentence.

(iv) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

(v) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection ~~[(12)]~~ (13), served time in jail as a condition of probation or due to a violation of probation under Subsection ~~[(12)]~~ (13)(e)(iv), the time the probationer served in jail constitutes service of time toward the

989 sentence previously imposed.

990 ~~[(13)]~~ (14) The court may order the defendant to commit the defendant to the custody
991 of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital
992 as a condition of probation or stay of sentence, only after the superintendent of the Utah State
993 Hospital or the superintendent's designee has certified to the court that:

994 (a) the defendant is appropriate for and can benefit from treatment at the state hospital;
995 (b) treatment space at the hospital is available for the defendant; and
996 (c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for
997 treatment over the defendants described in this Subsection ~~[(13)]~~ (14).

998 ~~[(14)]~~ (15) Presentence investigation reports are classified protected in accordance with
999 Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding
1000 Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure
1001 of a presentence investigation report. Except for disclosure at the time of sentencing pursuant
1002 to this section, the department may disclose the presentence investigation only when:

1003 (a) ordered by the court pursuant to Subsection 63G-2-202(7);
1004 (b) requested by a law enforcement agency or other agency approved by the department
1005 for purposes of supervision, confinement, and treatment of the offender;
1006 (c) requested by the Board of Pardons and Parole;
1007 (d) requested by the subject of the presentence investigation report or the subject's
1008 authorized representative;

1009 (e) requested by the victim of the crime discussed in the presentence investigation
1010 report or the victim's authorized representative, provided that the disclosure to the victim shall
1011 include only information relating to statements or materials provided by the victim, to the
1012 circumstances of the crime including statements by the defendant, or to the impact of the crime
1013 on the victim or the victim's household; or

1014 (f) requested by a sex offender treatment provider who is certified to provide treatment
1015 under the program established in Subsection 64-13-25(3) and who, at the time of the request:

1016 (i) is providing sex offender treatment to the offender who is the subject of the
1017 presentence investigation report; and

1018 (ii) provides written assurance to the department that the report:

1019 (A) is necessary for the treatment of the offender;

(B) will be used solely for the treatment of the offender; and

(C) will not be disclosed to an individual or entity other than the offender.

~~[(15)]~~ (16) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection ~~[(16)]~~ (17).

~~[(16)]~~ (17) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

Section 9. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

1051 (1) (a) The Board of Pardons and Parole shall determine by majority decision when and
1052 under what conditions any convictions, except for treason or impeachment, may be pardoned or
1053 commuted, subject to this chapter and other laws of the state.

1054 (b) The Board of Pardons and Parole shall determine by majority decision when and
1055 under what conditions, subject to this chapter and other laws of the state, individuals
1056 committed to serve sentences at penal or correctional facilities that are under the jurisdiction of
1057 the Department of Corrections, except treason or impeachment convictions or as otherwise
1058 limited by law, may be released upon parole, ordered to pay restitution, or have their fines,
1059 forfeitures, or restitution remitted, or their sentences terminated.

1060 (c) The board may sit together or in panels to conduct hearings. The chair shall appoint
1061 members to the panels in any combination and in accordance with rules made in accordance
1062 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board. The chair may
1063 participate on any panel and when doing so is chair of the panel. The chair of the board may
1064 designate the chair for any other panel.

1065 (d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole,
1066 pardon, or commutation granted or sentence terminated, except after a full hearing before the
1067 board or the board's appointed examiner in open session. Any action taken under this
1068 subsection other than by a majority of the board shall be affirmed by a majority of the board.

1069 (e) A commutation or pardon may be granted only after a full hearing before the board.

1070 (f) The board may determine restitution as provided in Section 77-27-6 and Subsection
1071 77-38a-302(5)(d)(iii)(A).

1072 (2) (a) In the case of any hearings, timely prior notice of the time and location of the
1073 hearing shall be given to the offender.

1074 (b) The county or district attorney's office responsible for prosecution of the case, the
1075 sentencing court, and law enforcement officials responsible for the defendant's arrest and
1076 conviction shall be notified of any board hearings through the board's website.

1077 (c) Whenever possible, the victim or the victim's representative, if designated, shall be
1078 notified of original hearings and any hearing after that if notification is requested and current
1079 contact information has been provided to the board.

1080 (d) Notice to the victim or the victim's representative shall include information
1081 provided in Section 77-27-9.5, and any related rules made by the board under that section. This

information shall be provided in terms that are reasonable for the lay person to understand.

(3) Decisions of the board in cases involving paroles, pardons, commutations or terminations of sentence, restitution, or remission of fines or forfeitures are final and are not subject to judicial review. Nothing in this section prevents the obtaining or enforcement of a civil judgment, including restitution as provided in Section 77-27-6.

(4) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment. However, respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole and the board, at that session, shall continue or terminate the respite or reprieve, or it may commute the punishment, or pardon the offense as provided. In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at its next session. The Legislature shall then either pardon or commute the sentence, or direct its execution.

(5) (a) In determining when, where, and under what conditions an offender serving a sentence may be paroled, pardoned, have restitution ordered, or have the offender's fines or forfeitures remitted, or the offender's sentence commuted or terminated, the board shall:

~~[(a)]~~ (i) consider whether the offender has made or is prepared to make restitution as ascertained in accordance with the standards and procedures of Section 77-38a-302, as a condition of any parole, pardon, remission of fines or forfeitures, or commutation or termination of sentence; and

~~[(b)]~~ (ii) develop and use a list of criteria for making determinations under this Subsection (5).

(b) At the successful termination of parole, or after 12 timely payments, the board may waive the remaining balance of a defendant's criminal judgment account receivable, with the exception of restitution.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period as provided in Section 76-3-202, and in accordance with Section ~~77-27-13~~ 77-27-12.

(7) For offenders placed on parole after December 31, 2018, the board shall terminate parole in accordance with the supervision length guidelines established by the Utah Sentencing

Commission under Section [63M-7-404](#), to the extent the guidelines are consistent with the requirements of the law.

Section 10. Section **77-32a-102** is amended to read:

77-32a-102. Creation of criminal judgment account receivable.

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

Collection on the account shall be suspended during the period of incarceration for the offense and during the first 180 days after a defendant's release from incarceration.

(2) (a) Notwithstanding any provision of law to the contrary, if a defendant has been found indigent in accordance with Section [78B-22-202](#), prior to ordering the imposition or enforcement of the criminal accounts receivable as described in Subsection (1), the court shall determine whether payment in full of the aggregate amount of all the financial obligations within the accounts receivable to be imposed upon the defendant would cause manifest hardship to the defendant or the defendant's immediate family.

(b) In determining the monetary sum of the financial obligations, the court shall consider:

(i) the financial resources of the defendant, as disclosed in the financial declaration described in Section [77-38a-204](#);

(ii) the burden that payment of the financial obligations will impose, with regard to the other costs assessed against the defendant for any other legal obligation; and

(iii) the ability of the defendant to pay the financial obligations on an installment basis.

(c) If the court determines that payment in full of the aggregate amount of the financial obligations imposed upon the defendant would cause manifest hardship to the defendant or the defendant's immediate family, the court shall order a payment plan that requires the defendant to make a monthly payment to fulfill the financial obligations. The court shall determine reasonable monthly payment amounts based on the defendant's circumstances.

~~[(2)]~~ (3) After creating the account receivable, the court:

(a) shall, when a prison sentence is imposed and not suspended, accept any payment on the criminal judgment account receivable tendered on the date of sentencing, enter any remaining unpaid criminal judgment account receivable as a civil judgment and transfer the

responsibility for collecting the judgment to the Office of State Debt Collection;

(b) may, in other cases, permit a defendant to pay the criminal judgment account receivable by a date certain or in installments; or

(c) 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.

~~[(3)]~~ (4) A court allowing installment payments does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

~~[(4)]~~ (5) If the court makes restitution or another financial decision at a time after sentencing that increases the total amount owed in a case, the criminal accounts receivable balance shall be adjusted to include the new amounts determined by the court.

~~[(5)]~~ (6) The court may modify the amount and number of any installment payments, as justice requires, at any time before the time for default as outlined in Subsection [77-32a-103\(2\)](#). A defendant who has been ordered to pay the balance of an account receivable and who is not more than three months delinquent in payments may, at any time, petition the sentencing court to reduce any unpaid portion of the account. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit or defer all or part of the amount, or modify the method of payment under Section [77-32a-104](#).

~~[(6)]~~ (7) In the district court, delinquent accounts may incur postjudgment interest.

Section 11. Section **77-32a-105** is amended to read:

77-32a-105. Accounts with balances at termination of probation.

(1) When a defendant successfully terminates probation and has a nondelinquent criminal judgment account receivable with an outstanding balance, the court ~~[shall]~~ may waive the remainder of the balance, with the exception of restitution, or retain the account and allow the defendant to continue paying off the account.

(2) Should any balance become delinquent or in default, the court shall take appropriate action pursuant to Section [77-32a-103](#) or [77-32a-104](#).

Section 12. Section **77-38a-501** is amended to read:

77-38a-501. Default and sanctions.

1175 (1) When a defendant defaults in the payment of a judgment for restitution or any
1176 installment ordered, the court, on motion of the prosecutor, parole or probation agent, victim,
1177 or on its own motion may:

1178 (a) impose sanctions against the defendant as provided in Section 77-32a-104; or

1179 (b) if the payment of restitution to a victim was a term of probation, begin probation
1180 violation proceedings as provided in Subsection 77-18-1~~[(12)]~~(13).

1181 (2) The court may not impose a sanction against the defendant under Subsection (1) if:

1182 (a) the defendant's sole default in the payment of a judgement for restitution is the
1183 failure to pay restitution ordered under Subsection 76-3-201(6) regarding costs of incarceration
1184 in a county correctional facility; and

1185 (b) the sanction would extend the defendant's term of probation or parole.