

1                   **PROPERTY AND FINANCIAL OFFENSE AMENDMENTS**

2                                   2022 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Brady Brammer**

5                                   Senate Sponsor: Michael K. McKell

6    Cosponsor:

7    Travis M. Seegmiller

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9    **LONG TITLE**

10 **General Description:**

11           This bill concerns penalties and evidence relating to property and financial offenses.

12 **Highlighted Provisions:**

13           This bill:

14           ▶ defines terms;

15           ▶ requires the Sentencing Commission to create and publish for public comment  
16 guidelines relating to certain financial and property offenses;

17           ▶ increases the penalty for a violation of a written false statement on a financial  
18 declaration completed by a defendant;

19           ▶ provides that a prosecuting attorney may subpoena certain information regarding  
20 property that may be necessary to satisfy a future restitution order, and that a court  
21 may consider this information when establishing a defendant's payment schedule on  
22 a criminal accounts receivable; and

23           ▶ makes technical and conforming changes.

24 **Money Appropriated in this Bill:**

25           None

26 **Other Special Clauses:**

27           None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63G-12-402**, as last amended by Laws of Utah 2021, Chapter 402

31 **63M-7-404**, as last amended by Laws of Utah 2021, Chapter 173

32 **76-8-504**, as enacted by Laws of Utah 1973, Chapter 196

33 **77-32b-103**, as enacted by Laws of Utah 2021, Chapter 260

34 **77-38b-204**, as renumbered and amended by Laws of Utah 2021, Chapter 260

35 **77-38b-402**, as renumbered and amended by Laws of Utah 2021, Chapter 260



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

38 Section 1. Section **63G-12-402** is amended to read:

39 **63G-12-402. Receipt of state, local, or federal public benefits -- Verification --**  
40 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

41 (1) (a) Except as provided in Subsection (3) or when exempted by federal law, an  
42 agency or political subdivision of the state shall verify the lawful presence in the United States  
43 of an individual at least 18 years [~~of age~~] old who applies for:

- 44 (i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or
- 45 (ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an  
46 agency or political subdivision of this state.

47 (b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction  
48 Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of  
49 Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United  
50 States of each individual who:

- 51 (i) owns an interest in the contractor that is an unincorporated entity; and
- 52 (ii) engages, or will engage, in a construction trade in Utah as an owner of the  
53 contractor described in Subsection (1)(b)(i).

54 (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or

55 national origin.

56 (3) Verification of lawful presence under this section is not required for:

57 (a) any purpose for which lawful presence in the United States is not restricted by law,  
58 ordinance, or regulation;

59 (b) assistance for health care items and services that:

60 (i) are necessary for the treatment of an emergency medical condition, as defined in 42  
61 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

62 (ii) are not related to an organ transplant procedure;

63 (c) short-term, noncash, in-kind emergency disaster relief;

64 (d) public health assistance for immunizations with respect to immunizable diseases  
65 and for testing and treatment of symptoms of communicable diseases whether or not the  
66 symptoms are caused by the communicable disease;

67 (e) programs, services, or assistance such as soup kitchens, crisis counseling and  
68 intervention, and short-term shelter, specified by the United States Attorney General, in the  
69 sole and unreviewable discretion of the United States Attorney General after consultation with  
70 appropriate federal agencies and departments, that:

71 (i) deliver in-kind services at the community level, including through public or private  
72 nonprofit agencies;

73 (ii) do not condition the provision of assistance, the amount of assistance provided, or  
74 the cost of assistance provided on the income or resources of the individual recipient; and

75 (iii) are necessary for the protection of life or safety;

76 (f) the exemption for paying the nonresident portion of total tuition as set forth in  
77 Section [53B-8-106](#);

78 (g) an applicant for a license under Section [61-1-4](#), if the applicant:

79 (i) is registered with the Financial Industry Regulatory Authority; and

80 (ii) files an application with the state Division of Securities through the Central  
81 Registration Depository;

82 (h) a state public benefit to be given to an individual under Title 49, Utah State  
83 Retirement and Insurance Benefit Act;

84 (i) a home loan that will be insured, guaranteed, or purchased by:

85 (i) the Federal Housing Administration, the Veterans Administration, or any other  
86 federal agency; or

87 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

88 (j) a subordinate loan or a grant that will be made to an applicant in connection with a  
89 home loan that does not require verification under Subsection (3)(i);

90 (k) an applicant for a license issued by the Department of Commerce or individual  
91 described in Subsection (1)(b), if the applicant or individual provides the Department of  
92 Commerce:

93 (i) certification, under penalty of perjury, that the applicant or individual is:

94 (A) a United States citizen;

95 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

96 (C) lawfully present in the United States; and

97 (ii) (A) the number assigned to a driver license or identification card issued under Title  
98 53, Chapter 3, Uniform Driver License Act; or

99 (B) the number assigned to a driver license or identification card issued by a state other  
100 than Utah if, as part of issuing the driver license or identification card, the state verifies an  
101 individual's lawful presence in the United States; and

102 (l) an applicant for:

103 (i) an Opportunity scholarship described in Title 53B, Chapter 8, Part 2, Regents'  
104 Scholarship Program;

105 (ii) a New Century scholarship described in Section [53B-8-105](#);

106 (iii) a promise scholarship described in Section [53B-8-303](#); or

107 (iv) a scholarship:

108 (A) for an individual who is a graduate of a high school located within Utah; and

109 (B) administered by an institution of higher education as defined in Section 53B-2-101.

110 (4) (a) An agency or political subdivision required to verify the lawful presence in the  
111 United States of an applicant under this section shall require the applicant to certify under  
112 penalty of perjury that:

113 (i) the applicant is a United States citizen; or

114 (ii) the applicant is:

115 (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

116 (B) lawfully present in the United States.

117 (b) The certificate required under this Subsection (4) shall include a statement advising  
118 the signer that providing false information subjects the signer to penalties for perjury.

119 (5) An agency or political subdivision shall verify a certification required under  
120 Subsection (4)(a)(ii) through the federal SAVE program.

121 (6) (a) An individual who knowingly and willfully makes a false, fictitious, or  
122 fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject  
123 to the criminal penalties applicable in this state for:

124 (i) making a written false statement under [~~Subsection 76-8-504(2)~~] Section 76-8-504;  
125 and

126 (ii) fraudulently obtaining:

127 (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

128 (B) unemployment compensation under Section 76-8-1301.

129 (b) If the certification constitutes a false claim of United States citizenship under 18  
130 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United  
131 States Attorney General for the applicable district based upon the venue in which the  
132 application was made.

133 (c) If an agency or political subdivision receives verification that a person making an  
134 application for a benefit, service, or license is not a qualified alien, the agency or political  
135 subdivision shall provide the information to the Office of the Attorney General unless

136 prohibited by federal mandate.

137 (7) An agency or political subdivision may adopt variations to the requirements of this  
138 section that:

139 (a) clearly improve the efficiency of or reduce delay in the verification process; or

140 (b) provide for adjudication of unique individual circumstances where the verification  
141 procedures in this section would impose an unusual hardship on a legal resident of Utah.

142 (8) It is unlawful for an agency or a political subdivision of this state to provide a state,  
143 local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

144 (9) A state agency or department that administers a program of state or local public  
145 benefits shall:

146 (a) provide an annual report to the governor, the president of the Senate, and the  
147 speaker of the House regarding its compliance with this section; and

148 (b) (i) monitor the federal SAVE program for application verification errors and  
149 significant delays;

150 (ii) provide an annual report on the errors and delays to ensure that the application of  
151 the federal SAVE program is not erroneously denying a state or local benefit to a legal resident  
152 of the state; and

153 (iii) report delays and errors in the federal SAVE program to the United States  
154 Department of Homeland Security.

155 Section 2. Section **63M-7-404** is amended to read:

156 **63M-7-404. Purpose -- Duties.**

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

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

160 (i) respond to public comment;

161 (ii) relate sentencing practices and correctional resources;

162 (iii) increase equity in criminal sentencing;

- 163 (iv) better define responsibility in criminal sentencing; and  
164 (v) enhance the discretion of sentencing judges while preserving the role of the Board  
165 of Pardons and Parole and the Youth Parole Authority;
- 166 (b) the length of supervision of adult offenders on probation or parole in order to:  
167 (i) increase equity in criminal supervision lengths;  
168 (ii) respond to public comment;  
169 (iii) relate the length of supervision to an offender's progress;  
170 (iv) take into account an offender's risk of offending again;  
171 (v) relate the length of supervision to the amount of time an offender has remained  
172 under supervision in the community; and
- 173 (vi) enhance the discretion of the sentencing judges while preserving the role of the  
174 Board of Pardons and Parole;
- 175 (c) appropriate, evidence-based probation and parole supervision policies and services  
176 that assist individuals in successfully completing supervision and reduce incarceration rates  
177 from community supervision programs while ensuring public safety, including:
- 178 (i) treatment and intervention completion determinations based on individualized case  
179 action plans;  
180 (ii) measured and consistent processes for addressing violations of conditions of  
181 supervision;  
182 (iii) processes that include using positive reinforcement to recognize an individual's  
183 progress in supervision;  
184 (iv) engaging with social services agencies and other stakeholders who provide  
185 services that meet offender needs; and  
186 (v) identifying community violations that may not warrant revocation of probation or  
187 parole.
- 188 (2) (a) The commission shall modify the sentencing guidelines and supervision length  
189 guidelines for adult offenders to implement the recommendations of the Commission on

190 Criminal and Juvenile Justice for reducing recidivism.

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

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

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

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

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

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

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

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

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

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

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

211 (6) The commission shall establish graduated and evidence-based processes to  
212 facilitate the prompt and effective response to an individual's progress in or violation of the  
213 terms of probation or parole by the adult probation and parole section of the Department of  
214 Corrections, or other supervision services provider, in order to implement the  
215 recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism  
216 and incarceration, including:



- 217 (a) responses to be used when an individual violates a condition of probation or parole;
- 218 (b) responses to recognize positive behavior and progress related to an individual's case
- 219 action plan;
- 220 (c) when a violation of a condition of probation or parole should be reported to the
- 221 court or the Board of Pardons and Parole; and
- 222 (d) a range of sanctions that may not exceed a period of incarceration of more than:
- 223 (i) three consecutive days; and
- 224 (ii) a total of five days in a period of 30 days.
- 225 (7) The commission shall establish graduated incentives to facilitate a prompt and
- 226 effective response by the adult probation and parole section of the Department of Corrections
- 227 to an offender's:
- 228 (a) compliance with the terms of probation or parole; and
- 229 (b) positive conduct that exceeds those terms.
- 230 (8) (a) The commission shall establish guidelines, including sanctions and incentives,
- 231 to appropriately respond to negative and positive behavior of juveniles who are:
- 232 (i) nonjudicially adjusted;
- 233 (ii) placed on diversion;
- 234 (iii) placed on probation;
- 235 (iv) placed on community supervision;
- 236 (v) placed in an out-of-home placement; or
- 237 (vi) placed in a secure care facility.
- 238 (b) In establishing guidelines under this Subsection (8), the commission shall consider:
- 239 (i) the seriousness of the negative and positive behavior;
- 240 (ii) the juvenile's conduct post-adjudication; and
- 241 (iii) the delinquency history of the juvenile.
- 242 (c) The guidelines shall include:
- 243 (i) responses that are swift and certain;

244 (ii) a continuum of community-based options for juveniles living at home;  
245 (iii) responses that target the individual's criminogenic risk and needs; and  
246 (iv) incentives for compliance, including earned discharge credits.  
247 (9) The commission shall establish supervision length guidelines in accordance with  
248 this section before October 1, 2018.

249 (10) (a) The commission shall create sentencing guidelines and supervision length  
250 guidelines for the following financial and property offenses for which a pecuniary loss to a  
251 victim may exceed \$50,000:

- 252 (i) securities fraud, Sections 61-1-1 and 61-1-21;
- 253 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment  
254 adviser representative, Sections 61-1-3 and 61-1-21;
- 255 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
- 256 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,

257 Assault and Related Offenses;

- 258 (v) arson, Section 76-6-102;
- 259 (vi) burglary, Section 76-6-202;
- 260 (vii) theft, Section 76-6-412;
- 261 (viii) forgery, Section 76-6-501;
- 262 (ix) unlawful dealing of property by a fiduciary, Section 76-6-513;
- 263 (x) fraudulent insurance act, Section 76-6-521;
- 264 (xi) computer crimes, Section 76-6-703;
- 265 (xii) mortgage fraud, Sections 76-6-1203 and 76-6-1204;
- 266 (xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;
- 267 (xiv) communications fraud, Section 76-10-1801;
- 268 (xv) money laundering, Section 76-10-1904; and
- 269 (xvi) other offenses in the discretion of the commission.

270 (b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix

271 with proportionate escalating sanctions based on the amount of a victim's loss.

272 (c) On or before August 1, 2022, the commission shall publish for public comment the  
 273 guidelines described in Subsection (10)(a).

274 Section 3. Section **76-8-504** is amended to read:

275 **76-8-504. Written false statement.**

276 ~~[A person is guilty of a class B misdemeanor if:]~~

277 (1) ~~[He makes a]~~ An actor commits the offense of written false statement ~~[which he]~~ if:

278 (a) the actor makes a statement that the actor does not believe to be true on or ~~[pursuant~~  
 279 ~~to]~~ under a form bearing a notification authorized by law to the effect that false statements  
 280 made therein are punishable; or

281 ~~[(2)] (b) [With]~~ with intent to deceive a public servant in the performance of ~~[his]~~ the  
 282 public servant's official function, [he] the actor:

283 ~~[(a)] (i) [Makes any]~~ makes a written false statement ~~[which he]~~ that the actor does not  
 284 believe to be true; ~~[or]~~

285 ~~[(b)] (ii) [Knowingly]~~ knowingly creates a false impression in a written application for  
 286 ~~[any]~~ a pecuniary or other benefit by omitting information necessary to prevent ~~[statements~~  
 287 ~~therein]~~ a statement in the application from being misleading; ~~[or]~~

288 ~~[(c)] (iii) [Submits]~~ submits or invites reliance on ~~[any writing which he]~~ a writing that  
 289 the actor knows to be lacking in authenticity; or

290 ~~[(d)] (iv) [Submits]~~ submits or invites reliance on ~~[any]~~ a sample, specimen, map,  
 291 boundary mark, or other object ~~[which he]~~ that the actor knows to be false.

292 (2) (a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class  
 293 B misdemeanor.

294 (b) A violation of Subsection (1) is a third degree felony if the false statement is on a  
 295 financial declaration described in Section [77-38b-204](#).

296 ~~[(3)] (3) [No person shall be guilty under this section if he]~~ It is not an offense under  
 297 this section if the actor retracts the falsification before it becomes manifest that the falsification

298 was or would be exposed.

299 Section 4. Section **77-32b-103** is amended to read:

300 **77-32b-103. Establishment of a criminal accounts receivable -- Responsibility --**  
301 **Payment schedule -- Delinquency or default.**

302 (1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or  
303 acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts  
304 receivable for the defendant.

305 (b) The court is not required to create a criminal accounts receivable for the defendant  
306 under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there  
307 are no other fines or fees to be assessed against the defendant.

308 (c) Subject to Subsection **77-38b-205**(5), if the court does not create a criminal  
309 accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to  
310 establish a criminal accounts receivable for the defendant at the time the court enters an order  
311 for restitution under Section **77-38b-205**.

312 (2) After establishing a criminal accounts receivable for a defendant, the court shall:

313 (a) if a prison sentence is imposed and not suspended for the defendant:

314 (i) accept any payment for the criminal accounts receivable that is tendered on the date  
315 of sentencing; and

316 (ii) transfer the responsibility of receiving, distributing, and processing payments for  
317 the criminal accounts receivable to the Office of State Debt Collection; and

318 (b) for all other cases:

319 (i) retain the responsibility for receiving, processing, and distributing payments for the  
320 criminal accounts receivable until the court enters a civil accounts receivable or civil judgment  
321 of restitution on the civil judgment docket under Subsection **77-18-114**(1) or (2); and

322 (ii) record each payment by the defendant on the case docket.

323 (c) For a criminal accounts receivable that a court retains responsibility for receiving,  
324 processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may

325 establish rules to require a defendant to pay the cost, or a portion of the cost, that is charged by  
326 a financial institution for the use of a credit or debit card by the defendant to make payments  
327 towards the criminal accounts receivable.

328 (3) (a) Upon entering an order for a criminal accounts receivable, the court shall  
329 establish a payment schedule for the defendant to make payments towards the criminal  
330 accounts receivable.

331 (b) In establishing the payment schedule for the defendant, the court shall consider:

332 (i) the needs of the victim if the criminal accounts receivable includes an order for  
333 restitution under Section [77-38b-205](#);

334 (ii) the financial resources of the defendant, as disclosed in the financial declaration  
335 under Section [77-38b-204](#) or in evidence obtained by subpoena under Subsection  
336 [77-38b-402\(1\)\(b\)](#);

337 (iii) the burden that the payment schedule will impose on the defendant regarding the  
338 other reasonable obligations of the defendant;

339 (iv) the ability of the defendant to pay restitution on an installment basis or on other  
340 conditions fixed by the court;

341 (v) the rehabilitative effect on the defendant of the payment of restitution and method  
342 of payment; and

343 (vi) any other circumstance that the court determines is relevant.

344 (4) A payment schedule for a criminal accounts receivable does not limit the ability of  
345 a judgment creditor to pursue collection by any means allowable by law.

346 (5) If the court orders restitution under Section [77-38b-205](#), or makes another financial  
347 decision, after sentencing that increases the total amount owed in a defendant's case, the  
348 defendant's criminal accounts receivable balance shall be adjusted to include any new amount  
349 ordered by the court.

350 (6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as  
351 defined in Section [64-13-1](#), or the defendant is involuntarily committed under Section

352 62A-15-631:

353 (i) all payments for a payment schedule shall be suspended for the period of time that  
354 the defendant is incarcerated or involuntarily committed, unless the court, or the board if the  
355 defendant is under the jurisdiction of the board, expressly orders the defendant to make  
356 payments according to the payment schedule; and

357 (ii) the defendant shall provide the court with notice of the incarceration or involuntary  
358 commitment.

359 (b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day  
360 in which the defendant is released from incarceration or commitment.

361 Section 5. Section 77-38b-204 is amended to read:

362 **77-38b-204. Financial declaration by defendant.**

363 (1) (a) The Judicial Council shall design and publish a financial declaration form to be  
364 completed by a defendant before the sentencing court establishes a payment schedule under  
365 Section 77-38b-205.

366 (b) The financial declaration form shall:

367 (i) require a defendant to disclose all assets, income, and financial liabilities of the  
368 defendant, including:

369 (A) real property;

370 (B) vehicles;

371 (C) precious metals or gems;

372 (D) jewelry with a value of \$1,000 or more;

373 (E) other personal property with a value of \$1,000 or more;

374 (F) the balance of any bank account and the name of the financial institution for the  
375 bank account;

376 (G) cash;

377 (H) salary, wages, commission, tips, and business income, including the name of any  
378 employer or entity from which the defendant receives a salary, wage, commission, tip, or

379 business income;

380 (I) pensions and annuities;

381 (J) intellectual property;

382 (K) accounts receivable;

383 (L) accounts payable;

384 (M) mortgages, loans, and other debts; and

385 (N) restitution that has been ordered, and not fully paid, in other cases; and

386 (ii) state that a false statement made in the financial declaration form is punishable as

387 ~~[a class B misdemeanor]~~ a third degree felony under Section [76-8-504](#).

388 (2) After a plea disposition or conviction has been entered but before sentencing, a

389 defendant shall complete the financial declaration form described in Subsection (1).

390 (3) When a civil judgment of restitution or a civil accounts receivable is entered for a

391 defendant on the civil judgment docket under Section [77-18-114](#), the court shall provide the

392 Office of State Debt Collection with the defendant's financial declaration form.

393 Section 6. Section **77-38b-402** is amended to read:

394 **77-38b-402. Preservation of assets.**

395 (1) (a) Before, or at the time, a criminal information, indictment charging a violation,

396 or a petition alleging delinquency is filed, or at any time during the prosecution of the case, a

397 prosecuting attorney may, if in the prosecuting attorney's best judgment there is a substantial

398 likelihood that a conviction will be obtained and restitution will be ordered in the case, petition

399 the court to:

400 ~~[(a)]~~ (i) enter a temporary restraining order, an injunction, or both;

401 ~~[(b)]~~ (ii) require the execution of a satisfactory performance bond; or

402 ~~[(c)]~~ (iii) take any other action to preserve the availability of property that may be

403 necessary to satisfy an anticipated order for restitution.

404 (b) A prosecuting attorney may subpoena a document, witness, or other evidence that,

405 in the prosecuting attorney's best judgment, may provide evidence relevant to the property

406 described in Subsection (1)(a)(iii).

407 (2) (a) Upon receiving a request from a prosecuting attorney under Subsection (1)(a),  
408 and after notice to a person appearing to have an interest in the property and affording the  
409 person an opportunity to be heard, the court may take action as requested by the prosecuting  
410 attorney if the court determines:

411 (i) there is probable cause to believe that an offense has been committed and that the  
412 defendant committed the offense, and that failure to enter the order will likely result in the  
413 property being sold, distributed, exhibited, destroyed, or removed from the jurisdiction of the  
414 court, or otherwise be made unavailable for restitution; and

415 (ii) the need to preserve the availability of the property or prevent the property's sale,  
416 distribution, exhibition, destruction, or removal through the entry of the requested order  
417 outweighs the hardship on any party against whom the order is to be entered.

418 (b) In a hearing conducted in accordance with this section, a court may consider  
419 reliable hearsay as defined in Utah Rules of Evidence, Rule 1102.

420 (c) An order for an injunction entered under this section is effective for the period of  
421 time given in the order.

422 (3) (a) Upon receiving a request for a temporary restraining order from a prosecuting  
423 attorney under this section, a court may enter a temporary restraining order against an owner  
424 with respect to specific property without notice or opportunity for a hearing if:

425 (i) the prosecuting attorney demonstrates that there is a substantial likelihood that the  
426 property with respect to which the order is sought appears to be necessary to satisfy an  
427 anticipated restitution order under this chapter; and

428 (ii) provision of notice would jeopardize the availability of the property to satisfy any  
429 judgment or order for restitution.

430 (b) The temporary order in this Subsection (3) expires no later than 10 days after the  
431 day on which the temporary order is entered unless extended for good cause shown or the party  
432 against whom the temporary order is entered consents to an extension.



433           (4) A hearing concerning an order entered under this section shall be held as soon as  
434 possible, and before the expiration of the temporary order.