

**COURT FEES FOR POLITICAL SUBDIVISIONS**

2014 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill provides that an agency or political subdivision shall pay a defendant's court costs under certain conditions.

**Highlighted Provisions:**

This bill:

- ▶ provides that if a defendant substantially prevails on appeal for a violation of an ordinance, there is a rebuttable presumption that the agency or political subdivision shall pay the defendant's court costs; and
- ▶ provides a benchmark for "substantially prevails."

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78A-2-301**, as last amended by Laws of Utah 2012, Chapter 247

**78A-2-301.5**, as last amended by Laws of Utah 2013, Chapter 245

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

Section 1. Section **78A-2-301** is amended to read:

**78A-2-301. Civil fees of the courts of record -- Courts complex design.**

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$360.

(b) The fee for filing a complaint or petition is:

(i) \$75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,

- 33 interest, and attorney fees is greater than \$2,000 and less than \$10,000;
- 34 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;
- 35 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter  
36 4, Separate Maintenance;
- 37 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5; and
- 38 (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender  
39 Registry under Subsection 77-27-21.5(32).
- 40 (c) The fee for filing a small claims affidavit is:
- 41 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,  
42 interest, and attorney fees is \$2,000 or less;
- 43 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,  
44 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
- 45 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,  
46 interest, and attorney fees is \$7,500 or more.
- 47 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party  
48 complaint, or other claim for relief against an existing or joined party other than the original  
49 complaint or petition is:
- 50 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is  
51 \$2,000 or less;
- 52 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is  
53 greater than \$2,000 and less than \$10,000;
- 54 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is  
55 \$10,000 or more, or the party seeks relief other than monetary damages; and
- 56 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,  
57 Chapter 4, Separate Maintenance.
- 58 (e) The fee for filing a small claims counter affidavit is:
- 59 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is  
60 \$2,000 or less;
- 61 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is  
62 greater than \$2,000, but less than \$7,500; and
- 63 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is

64 \$7,500 or more.

65 (f) The fee for depositing funds under Section 57-1-29 when not associated with an  
66 action already before the court is determined under Subsection (1)(b) based on the amount  
67 deposited.

68 (g) The fee for filing a petition is:

69 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims  
70 department; and

71 (ii) \$65 for an appeal of a municipal administrative determination in accordance with  
72 Section 10-3-703.7.

73 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or  
74 petition for writ of certiorari is \$225.

75 (i) The fee for filing a petition for expungement is \$135.

76 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be  
77 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'  
78 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'  
79 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement  
80 Act.

81 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be  
82 allocated by the state treasurer to be deposited in the restricted account, Children's Legal  
83 Defense Account, as provided in Section 51-9-408.

84 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),  
85 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided  
86 in Section 78B-6-209.

87 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),  
88 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be  
89 deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

90 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and  
91 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court  
92 Security Account, as provided in Section 78A-2-602.

93 (k) The fee for filing a judgment, order, or decree of a court of another state or of the  
94 United States is \$35.

95 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is  
96 50% of the fee for filing an original action seeking the same relief.

97 (m) The fee for filing probate or child custody documents from another state is \$35.

98 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the  
99 Utah State Tax Commission is \$30.

100 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state  
101 or a judgment, order, or decree of an administrative agency, commission, board, council, or  
102 hearing officer of this state or of its political subdivisions other than the Utah State Tax  
103 Commission, is \$50.

104 (o) The fee for filing a judgment by confession without action under Section  
105 78B-5-205 is \$35.

106 (p) The fee for filing an award of arbitration for confirmation, modification, or  
107 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an  
108 action before the court is \$35.

109 (q) The fee for filing a petition or counter-petition to modify a decree of divorce is  
110 \$100.

111 (r) The fee for filing any accounting required by law is:

112 (i) \$15 for an estate valued at \$50,000 or less;

113 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

114 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

115 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

116 (v) \$175 for an estate valued at more than \$168,000.

117 (s) The fee for filing a demand for a civil jury is \$250.

118 (t) The fee for filing a notice of deposition in this state concerning an action pending in  
119 another state under Utah Rule of Civil Procedure 26 is \$35.

120 (u) The fee for filing documents that require judicial approval but are not part of an  
121 action before the court is \$35.

122 (v) The fee for a petition to open a sealed record is \$35.

123 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in  
124 addition to any fee for a complaint or petition.

125 (x) (i) The fee for a petition for authorization for a minor to marry required by Section

126 30-1-9 is \$5.

127 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,  
128 Part 8, Emancipation, is \$50.

129 (y) The fee for a certificate issued under Section 26-2-25 is \$8.

130 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per  
131 page.

132 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents  
133 per page.

134 (bb) The Judicial Council shall by rule establish a schedule of fees for copies of  
135 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,  
136 Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall  
137 be credited to the court as a reimbursement of expenditures.

138 (cc) There is no fee for services or the filing of documents not listed in this section or  
139 otherwise provided by law.

140 (dd) Except as provided in this section, all fees collected under this section are paid to  
141 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk  
142 accepts the pleading for filing or performs the requested service.

143 (ee) ~~[The]~~ Except as provided in Subsection (1)(ee)(ii), filing fees under this section  
144 may not be charged to the state, its agencies, or political subdivisions filing or defending any  
145 action.

146 (i) In judgments awarded in favor of the state, its agencies, or political subdivisions,  
147 except the Office of Recovery Services, the court shall order the filing fees and collection costs  
148 to be paid by the judgment debtor.

149 (ii) In cases involving the violation of an ordinance, if, on appeal, the defendant  
150 substantially prevails, there is a rebuttable presumption that the agency or political subdivision  
151 shall pay the defendant's court costs, including filing fees. The defendant substantially prevails  
152 if the final judgment:

153 (A) dismisses the charge; or

154 (B) orders the defendant to pay an amount that is 25% or less of the fine or fee sought  
155 by the agency or political subdivision.

156 (iii) The sums collected under this Subsection (1)(ee) shall be applied to the fees after

157 credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

158 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts  
159 shall transfer all revenues representing the difference between the fees in effect after May 2,  
160 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of  
161 Facilities Construction and Management Capital Projects Fund.

162 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities  
163 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the  
164 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to  
165 initiate the development of a courts complex in Salt Lake City.

166 (B) If the Legislature approves funding for construction of a courts complex in Salt  
167 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and  
168 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection  
169 (2)(a)(ii) to construct a courts complex in Salt Lake City.

170 (C) After the courts complex is completed and all bills connected with its construction  
171 have been paid, the Division of Facilities Construction and Management shall use any money  
172 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal  
173 District Court building.

174 (iii) The Division of Facilities Construction and Management may enter into  
175 agreements and make expenditures related to this project before the receipt of revenues  
176 provided for under this Subsection (2)(a)(iii).

177 (iv) The Division of Facilities Construction and Management shall:

178 (A) make those expenditures from unexpended and unencumbered building funds  
179 already appropriated to the Capital Projects Fund; and

180 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for  
181 under this Subsection (2).

182 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues  
183 representing the difference between the fees in effect after May 2, 1994, and the fees in effect  
184 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted  
185 account.

186 (c) The Division of Finance shall deposit all revenues received from the court  
187 administrator into the restricted account created by this section.

188 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall  
189 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor  
190 Vehicles, in a court of record to the Division of Facilities Construction and Management  
191 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be  
192 calculated on the balance of the fine or bail forfeiture paid.

193 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer  
194 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in  
195 a court of record to the Division of Finance for deposit in the restricted account created by this  
196 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the  
197 balance of the fine or bail forfeiture paid.

198 (3) (a) There is created within the General Fund a restricted account known as the State  
199 Courts Complex Account.

200 (b) The Legislature may appropriate money from the restricted account to the  
201 administrator of the courts for the following purposes only:

202 (i) to repay costs associated with the construction of the court complex that were  
203 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

204 (ii) to cover operations and maintenance costs on the court complex.

205 Section 2. Section **78A-2-301.5** is amended to read:

206 **78A-2-301.5. Civil fees for justice courts.**

207 (1) The fee for filing a small claims affidavit is:

208 (a) \$60 if the claim for damages or amount in interpleader exclusive of justice court  
209 costs, interest, and attorney fees is \$2,000 or less;

210 (b) \$100 if the claim for damages or amount in interpleader exclusive of justice court  
211 costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

212 (c) \$185 if the claim for damages or amount in interpleader exclusive of justice court  
213 costs, interest, and attorney fees is \$7,500 or more.

214 (2) The fee for filing a small claims counter affidavit is:

215 (a) \$50 if the claim for relief exclusive of justice court costs, interest, and attorney fees  
216 is \$2,000 or less;

217 (b) \$70 if the claim for relief exclusive of justice court costs, interest, and attorney fees  
218 is greater than \$2,000, but less than \$7,500; and

219 (c) \$120 if the claim for relief exclusive of justice court costs, interest, and attorney  
220 fees is \$7,500 or more.

221 (3) The fee for filing a petition for expungement is \$135.

222 (4) The fee for a petition to open a sealed record is \$35.

223 (5) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in  
224 addition to any fee for a complaint or petition.

225 (6) The fee for filing a notice of appeal to a court of record is \$10. This fee covers all  
226 services of the justice court on appeal but does not satisfy the trial de novo filing fee in the  
227 court of record.

228 (7) The fee for a certified copy of a document is \$4 per document plus 50 cents per  
229 page.

230 (8) The fee for an exemplified copy of a document is \$6 per document plus 50 cents  
231 per page.

232 (9) The fee schedule adopted by the Judicial Council for copies of documents and  
233 forms and for the search and retrieval of records under Title 63G, Chapter 2, Government  
234 Records Access and Management Act, shall apply.

235 (10) There is no fee for services or the filing of documents not listed in this section or  
236 otherwise provided by law.

237 (11) The filing fees under this section may not be charged to the state, its agencies, or  
238 political subdivisions filing or defending any action. In judgments awarded in favor of the  
239 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court  
240 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums  
241 collected under this Subsection (11) shall be applied to the fees after credit to the judgment,  
242 order, fine, tax, lien, or other penalty and costs permitted by law.

243 (12) Notwithstanding Subsection (11), in cases involving the violation of an ordinance,  
244 if, on appeal, the defendant substantially prevails, there is a rebuttable presumption that the  
245 agency or political subdivision shall pay the defendant's court costs, including filing fees. The  
246 defendant substantially prevails if the final judgment:

247 (a) dismisses the charge; or

248 (b) orders the defendant to pay an amount that is 25% or less of the fine or fee sought  
249 by the agency or political subdivision.

