

JUSTICE COURT AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Greg J. Curtis

AN ACT RELATING TO THE JUDICIAL CODE; PROVIDING FOR THE CREATION OF JUSTICE COURTS BY COUNTIES AND MUNICIPALITIES; CREATING CLASSES OF JUSTICE COURTS; PROVIDING REQUIREMENTS FOR DISSOLUTION OF A JUSTICE COURT; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-3-4, as last amended by Chapter 216, Laws of Utah 1997

78-5-134, as last amended by Chapter 10, Laws of Utah 1997

78-5-139, as enacted by Chapter 157, Laws of Utah 1989

ENACTS:

78-5-101.5, Utah Code Annotated 1953

78-5-140, Utah Code Annotated 1953

REPEALS:

10-3-923, as last amended by Chapter 216, Laws of Utah 1997

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

Section 1. Section **78-3-4** is amended to read:

78-3-4. Jurisdiction -- Appeals.

(1) The district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law.

(2) The district court judges may issue all extraordinary writs and other writs necessary to carry into effect their orders, judgments, and decrees.

(3) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.

(4) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.

(5) The district court has appellate jurisdiction to adjudicate trials de novo of the judgments of the justice court and of the small claims department of the district court.

(6) Appeals from the final orders, judgments, and decrees of the district court are under Sections 78-2-2 and 78-2a-3.

(7) The district court has jurisdiction to review agency adjudicative proceedings as set forth in Title 63, Chapter 46b, Administrative Procedures Act, and shall comply with the requirements of that chapter, in its review of agency adjudicative proceedings.

(8) Notwithstanding Subsection (1), [~~between July 1, 1997, and July 1, 1998;~~] the district court has subject matter jurisdiction in class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if:

- (a) there is no justice court with territorial jurisdiction;
- (b) the matter was properly filed in the circuit court prior to July 1, 1996;
- (c) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed a justice court; or
- (d) they are included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor.

Section 2. Section **78-5-101.5** is enacted to read:

78-5-101.5. Creation of Justice Courts -- Classes of Justice Courts.

(1) (a) For the purposes of this section, to "create a justice court" means to:

- (i) establish a justice court;
- (ii) establish a justice court under Title 11, Chapter 13, Interlocal Cooperation Act; or
- (iii) adjudicate those matters within the jurisdiction of the justice court in a county precinct justice court.

(b) A municipality or county that has created a justice court may change the form of its court to another listed in Subsection (1)(a) without being considered to have created a court.

(2) Justice courts shall be divided into the following classes:

- (a) Class I: 501 or more citations or cases filed per month;
- (b) Class II: 201-500 citations or cases filed per month;

(c) Class III: 61-200 citations or cases filed per month; and

(d) Class IV: 60 or fewer citations or cases filed per month.

(3) Municipalities or counties can elect to create a Class I or Class II justice court by filing a written declaration with the Judicial Council on or before July 1 at least two years prior to the effective date of the election. Upon demonstration of compliance with operating standards as established by statute and the Judicial Council, the Judicial Council shall certify the creation of the court pursuant to Section 78-5-139.

(4) (a) Except as provided in Subsection (5), municipalities or counties can elect to create a Class III or Class IV justice court by establishing the need for the court and filing a written declaration with the Judicial Council on or before July 1 at least one year prior to the effective date of the election.

(b) In evaluating the need for the creation of a Class III or Class IV justice court, the Judicial Council shall consider factors of population, case filings, public convenience, availability of law enforcement agencies and court support services, proximity to other courts, and any special circumstances.

(c) The Judicial Council shall determine whether the municipality or county seeking to create a Class III or Class IV justice court has established the need for the court.

(d) Upon demonstration of compliance with operating standards as established by statute and the Judicial Council, the Judicial Council shall certify the creation of the court pursuant to Section 78-5-139.

(5) (a) The following municipalities may create a justice court by filing a written declaration with the Judicial Council: American Fork, Bountiful, Brigham City, Cedar City, Clearfield, Elk Ridge, Kaysville, Layton, Logan, Moab, Murray, Ogden, Orem, Park City, Price, Provo, Richfield, Roosevelt, Roy, Salem, Salt Lake City, Sandy, Spanish Fork, St. George, Taylorsville, Tooele, Vernal, and West Valley City.

(b) To form a Class I or Class II justice court, the municipalities listed in Subsection (5)(a) shall file a written declaration with the Judicial Council on or before July 1 at least two years prior to the effective date of the election.

(c) To form a Class III or Class IV justice court, the municipalities listed in Subsection (5)(a) shall file a written declaration with the Judicial Council on or before July 1 at least one year prior to the effective date of the election.

(d) Upon demonstration of compliance with operating standards as established by statute and the Judicial Council, the Judicial Council shall certify the creation of the court pursuant to Section 78-5-139.

(6) Upon request from a municipality or county seeking to create a justice court, the Judicial Council may shorten the time required between the city's or county's written declaration or election to create a justice court and the effective date of the election.

(7) The Judicial Council may by rule provide resources and procedures adequate for the timely disposition of all matters brought before the courts. The administrative office of the courts and local governments shall cooperate in allocating resources to operate the courts in the most efficient and effective manner based on the allocation of responsibility between courts of record and not of record.

Section 3. Section **78-5-134** is amended to read:

78-5-134. Justice court judges to be appointed -- Procedure -- Report to Judicial Council -- Retention election -- Vacancy.

(1) As used in this section:

(a) "Appointing authority" means:

(i) the chair of the county commission in counties having the county commission form of county government;

(ii) the county executive in counties having the county executive-council form of government;

(iii) the chair of the city commission, city council, or town council in municipalities having:

(A) the traditional management arrangement established by Title 10, Chapter 3, Part 1; and

(B) the council-manager optional form of government defined in Section 10-3-1209; and

(iv) the mayor, in the council-mayor optional form of government defined in Section 10-3-1209; and

(b) "Local legislative body" means:

- (i) the county commission or county council; and
- (ii) the city commission, city council, or town council.

(2) Justice court judges shall be appointed by the appointing authority and confirmed by a majority vote of the local legislative body.

(3) (a) After a newly appointed justice court judge has been confirmed, the local legislative body shall report the confirmed judge's name to the Judicial Council.

(b) The Judicial Council shall certify the judge as qualified to hold office upon successful completion of the orientation program and upon the written opinion of the county or municipal attorney that the judge meets the statutory qualifications for office.

(c) A justice court judge may not perform judicial duties until certified by the Judicial Council.

(4) Upon the expiration of a county justice court judge's term of office~~[: (a) a county justice court]~~ the judge shall be subject to an unopposed retention election in accordance with the procedures set forth in Section 20A-12-201[; and].

~~[(b) a municipal justice court judge may be considered for reappointment after the appointing authority has considered:]~~

(5) Upon the expiration of a municipal justice court judge's term of office a municipal justice court judge shall be reappointed absent a showing of good cause by the appointing authority.

(a) If an appointing authority asserts good cause to not reappoint a municipal justice court judge, at the request of the judge, the good cause shall be presented at a formal hearing of the local legislative body.

(b) The local legislative body shall determine by majority vote whether good cause exists not to reappoint the municipal justice court judge.

(c) The decision of the local legislative body is not subject to appeal.

(d) In determining whether good cause exists to not reappoint a municipal justice court judge, the appointing authority and local legislative body shall consider:

- (i) whether or not the judge has been certified as meeting the evaluation criteria for judicial

performance established by the Judicial Council; and

(ii) any other factors considered relevant by the appointing authority.

[(5)] (6) Before reappointment or retention election, each justice court judge shall be evaluated in accordance with the performance evaluation program established in Subsection 78-3-21(4).

[(6)] (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of justice court judge, the appointing authority may contract with a justice court judge in the county or an adjacent county to serve as justice court judge.

(b) The contract shall be for the duration of the justice court judge's term of office.

[(7)] (8) Vacancies in the office of justice court judge shall be filled as provided in Section 20A-1-506.

Section 4. Section **78-5-139** is amended to read:

78-5-139. Requirements by Judicial Council for creating and certifying justice courts.

(1) The Judicial Council has the responsibility for promulgating and publishing minimum requirements both for the creation of new courts and the certification of existing courts. [~~The Judicial Council shall consider factors of population, case filings, public convenience, availability of law enforcement agencies and court support services, proximity to other courts, and special circumstances which establish a need for the court in developing the minimum requirements for creation of a new court.~~] The council shall also review requests for waiver of the minimum requirements and may authorize the creation of a court by waiving compliance with minimum requirements or by allowing for an extension of time to meet the minimum requirements.

[(3)] (2) Existing justice courts shall be recertified at the end of each four-year term if they continue to meet the minimum requirements for the establishment of a new court. Any existing court which does not meet the minimum requirements may request a review from the council, which may authorize the recertification of the court by waiving compliance with minimum requirements or by allowing for an extension of time to meet those requirements.

Section 5. Section **78-5-140** is enacted to read:

78-5-140. Dissolution of Justice Courts.

(1) (a) The county or municipality shall obtain legislative approval to dissolve a justice court if the caseload from that court would fall to the district court upon dissolution.

(b) To obtain approval of the Legislature, the governing authority of the municipality or county shall petition the Legislature to adopt a joint resolution to approve the dissolution.

(c) The municipality or county shall provide notice to the Judicial Council.

(d) Notice of intent to dissolve a Class I or Class II justice court to the Judicial Council shall be given not later than July 1 two years prior to the general session in which the county or municipality intends to seek legislative approval.

(e) Notice of intent to dissolve a Class III or Class IV justice court to the Judicial Council shall be given not later than July 1 immediately prior to the general session in which the county or municipality intends to seek legislative approval.

(2) (a) A county or municipality shall give notice of intent to dissolve a justice court to the Judicial Council if the caseload of that court would fall to the county justice court. A municipality shall also give notice to the county of its intent to dissolve a justice court.

(b) Notice of intent to dissolve a Class I or Class II court shall be given by July 1 at least two years prior to the effective date of the dissolution.

(c) Notice of intent to dissolve a Class III or Class IV court shall be given by July 1 at least one year prior to the effective date of the dissolution.

(3) Upon request from a municipality or county seeking to dissolve a justice court, the Judicial Council may shorten the time required between the city's or county's notice of intent to dissolve a justice court and the effective date of the dissolution.

Section 6. Repealer.

This act repeals:

Section 10-3-923, Authority of municipality to create justice court.

Section 7. Effective date.

This act takes effect on July 1, 1998.