

COURT JURISDICTION AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

AN ACT RELATING TO THE JUDICIAL CODE; PROHIBITING ACTIONS AGAINST GOVERNMENTAL ENTITIES FROM BEING TRIED AS SMALL CLAIMS ACTIONS; CLARIFYING THE JURISDICTIONAL RELATIONSHIP BETWEEN MUNICIPAL AND COUNTY JUSTICE COURTS; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

63-30-16, as last amended by Chapter 129, Laws of Utah 1983

78-5-101.5, as enacted by Chapter 313, Laws of Utah 1998

78-5-138, as enacted by Chapter 157, Laws of Utah 1989

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

Section 1. Section **63-30-16** is amended to read:

63-30-16. Jurisdiction of district courts over actions -- Application of Rules of Civil Procedure.

(1) The district courts shall have exclusive original jurisdiction over any action brought under this chapter~~[, and such actions]~~.

(2) ~~An action brought under this chapter may not be tried as a small claims action and shall be governed by the Utah Rules of Civil Procedure [in so far as] to the extent they are consistent with this chapter.~~

Section 2. Section **78-5-101.5** is amended 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; or

(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 **78-5-138** is amended to read:

78-5-138. Temporary justice court judge.

If a justice court judge is absent or disqualified, the appointing authority may appoint another justice court judge currently holding office within the [county] judicial district to serve as a temporary justice court judge. A retired justice court judge may also be appointed as a temporary justice court judge under rule of the Supreme Court.