

**JUDICIARY AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: Kay L. McIff

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**LONG TITLE**

**General Description:**

This bill makes conforming and correction changes throughout the code regarding the judiciary and courts.

**Highlighted Provisions:**

This bill:

- ▶ changes the filing fee for a temporary separation to conform with the filing fees in the judicial administration title;
- ▶ eliminates the requirement that a second notice be sent to a taxpayer when an overpayment of taxes will be applied to the bail on an arrest warrant;
- ▶ allows the cancellation of a grand jury hearing when no person has been scheduled to testify;
- ▶ clarifies that references to petition, complaint, or other documents filed with the courts include the cover sheet filed with them;
- ▶ makes changes to the court reporter chapter, including:
  - requiring that the Judicial Council shall provide for the methods of maintaining court proceedings by rule; and
  - eliminating substitute reporters, traveling expenses, and the Court Reporting Technology Account;
- ▶ gives justice courts explicit authority to issue writs necessary to carry out its orders; and
- ▶ clarifies notice and hearing provisions for ex parte orders.

**Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **30-3-4.5**, as enacted by Laws of Utah 2007, Chapter 301

36 **59-10-529**, as last amended by Laws of Utah 2009, Chapter 212

37 **77-10a-2**, as last amended by Laws of Utah 1994, Chapter 218

38 **78A-2-402**, as renumbered and amended by Laws of Utah 2008, Chapter 3

39 **78A-2-405**, as renumbered and amended by Laws of Utah 2008, Chapter 3

40 **78A-2-408**, as renumbered and amended by Laws of Utah 2008, Chapter 3

41 **78A-2-409**, as renumbered and amended by Laws of Utah 2008, Chapter 3

42 **78A-5-102**, as last amended by Laws of Utah 2008, Chapters 93, 115 and renumbered  
43 and amended by Laws of Utah 2008, Chapter 3

44 **78A-6-115**, as last amended by Laws of Utah 2009, Chapters 146 and 161

45 **78A-7-106**, as last amended by Laws of Utah 2008, Chapters 115, 327 and  
46 renumbered and amended by Laws of Utah 2008, Chapter 3

47 **78A-8-105**, as renumbered and amended by Laws of Utah 2008, Chapter 3

48 **78B-7-107**, as last amended by Laws of Utah 2008, Chapter 163 and renumbered and  
49 amended by Laws of Utah 2008, Chapter 3

50 **78B-7-203**, as renumbered and amended by Laws of Utah 2008, Chapter 3

51 ENACTS:

52 **78A-2-229**, Utah Code Annotated 1953

53 REPEALS:

54 **78A-2-406**, as renumbered and amended by Laws of Utah 2008, Chapter 3

55 **78A-2-407**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

58 Section 1. Section **30-3-4.5** is amended to read:

59 **30-3-4.5. Motion for temporary separation order.**

60 (1) A petitioner may file an action for a temporary separation order without filing a  
61 petition for divorce by filing a petition for temporary separation and motion for temporary  
62 orders if:

63 (a) the petitioner is lawfully married to the respondent; and

64 (b) both parties are residents of the state for at least 90 days prior to the date of filing.

65 (2) The temporary orders are valid for one year from the date of the hearing, or until  
66 one of the following occurs:

67 (a) a petition for divorce is filed and consolidated with the petition for temporary  
68 separation; or

69 (b) the case is dismissed.

70 (3) If a petition for divorce is filed and consolidated with the petition for temporary  
71 separation, orders entered in the temporary separation shall continue in the consolidated case.

72 (4) Both parties shall attend the divorce orientation course described in Section  
73 30-3-11.4 within 60 days of the filing of the petition, for petitioner, and within 45 days of  
74 being served, for respondent.

75 (5) Service shall be made upon respondent, together with a 20-day summons, in  
76 accordance with the rules of civil procedure.

77 (6) The fee for filing the petition for temporary separation orders [~~shall be \$25~~] is \$35.  
78 If either party files a petition for divorce within one year from the date of filing the petition for  
79 temporary separation, the [~~\$25~~] separation filing fee shall be credited towards the filing fee for  
80 the divorce.

81 Section 2. Section **59-10-529** is amended to read:

82 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

83 (1) If there has been an overpayment of any tax imposed by this chapter, the amount of  
84 overpayment is credited as follows:

85 (a) against any income tax then due from the taxpayer;

86 (b) against:

87 (i) the amount of any judgment against the taxpayer, including one ordering the  
88 payment of a fine or of restitution to a victim under Title 77, Chapter 38a, Crime Victims  
89 Restitution Act, obtained through due process of law by any entity of state government; or

90 (ii) subject to Subsection [~~(3)~~] (4)(a)(i), any child support obligation that is due or past  
91 due, as determined by the Office of Recovery Services in the Department of Human Services  
92 and after notice and an opportunity for an adjudicative proceeding, as provided in Subsection  
93 (2); or

94 (c) subject to Subsection (3), (5), (6), or (7), as bail, to ensure the appearance of the  
95 taxpayer before the appropriate authority to resolve an outstanding warrant against the  
96 taxpayer for which bail is due, if a court of competent jurisdiction has not approved an  
97 alternative form of payment.

98 (2) If a balance remains after an overpayment is credited in accordance with  
99 Subsection (1), the balance shall be refunded to the taxpayer.

100 (3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture:

101 (a) that is due and related to a warrant that is outstanding on or after February 16,  
102 1984; and

103 (b) in accordance with Subsections (5) and (6).

104 (4) (a) The amount of an overpayment may be credited against an obligation described  
105 in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the  
106 taxpayer's last-known address or the address on file under Section 62A-11-304.4, stating:

107 (i) the amount of child support that is due or past due as of the date of the notice or  
108 other specified date;

109 (ii) that any overpayment shall be applied to reduce the amount of due or past-due  
110 child support specified in the notice; and

111 (iii) that the taxpayer may contest the amount of past-due child support specified in  
112 the notice by filing a written request for an adjudicative proceeding with the office within 15  
113 days of the notice being sent.

114 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
115 the Office of Recovery Services shall establish rules to implement this Subsection (4),  
116 including procedures, in accordance with the other provisions of this section, to ensure:

117 (i) prompt reimbursement to the taxpayer of any amount of an overpayment that was  
118 credited against a child support obligation in error; and

119 (ii) prompt distribution of properly credited funds to the obligee parent.

120 (5) The amount of an overpayment may be credited against bail described in  
121 Subsection (1)(c) if:

122 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail,  
123 appear, or otherwise satisfy the terms of a citation, summons, or court order; and

124 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been  
125 sent to the person's current address on file with the commission.

126 (6) (a) (i) The commission shall deliver an overpayment applied as bail to the court  
127 that issued the warrant of arrest.

128 (ii) The clerk of the court is authorized to endorse the check or commission warrant of  
129 payment on behalf of the payees and deposit the monies in the court treasury.

130 (b) (i) The court receiving an overpayment applied as bail shall order withdrawal of  
131 the warrant for arrest of the taxpayer if:

132 (A) the case is a case for which a personal appearance of the taxpayer is not required;  
133 and

134 (B) the dollar amount of the overpayment represents the full dollar amount of bail.

135 (ii) In a case except for a case described in Subsection (6)(b)(i):

136 (A) the court receiving the overpayment applied as bail is not required to order the  
137 withdrawal of the warrant of arrest of the taxpayer during the 40-day period; and

138 (B) the taxpayer may be arrested on the warrant.

139 (c) (i) If a taxpayer fails to respond to the notice required by Subsection (5)(b), or to  
140 resolve the warrant within 40 days after the notice is sent under Subsection (5)(b)[~~-(A)~~], the  
141 overpayment applied as bail is forfeited[~~;~~and].

142           ~~[(B) notice of the forfeiture shall be mailed to the taxpayer at the current address on~~  
143 ~~file with the commission.]~~

144           (ii) A court may issue another warrant or allow the original warrant to remain in force  
145 if:

146           (A) the taxpayer has not complied with an order of the court;

147           (B) the taxpayer has failed to appear and respond to a criminal charge for which a  
148 personal appearance is required; or

149           (C) the taxpayer has paid partial but not full bail in a case for which a personal  
150 appearance is not required.

151           (d) If the alleged violations named in a warrant are later resolved in favor of the  
152 taxpayer, the bail amount shall be remitted to the taxpayer.

153           (7) The fine and bail forfeiture provisions of this section apply to all warrants and  
154 fines issued in cases charging a taxpayer with a felony, a misdemeanor, or an infraction  
155 described in this section which are outstanding on or after February 16, 1984.

156           (8) If the amount allowable as a credit for tax withheld from a taxpayer exceeds the tax  
157 to which the credit relates, the excess is considered an overpayment.

158           (9) (a) Subject to Subsection (9)(b), a claim for credit or refund of an overpayment  
159 that is attributable to a net operating loss carry back or carry forward shall be filed within three  
160 years from the due date of the return for the taxable year of the net operating loss.

161           (b) The three-year period described in Subsection (9)(a) shall be extended by any  
162 extension of time provided in statute for filing the return described in Subsection (9)(a).

163           (10) If there has been an overpayment of a tax that is required to be deducted and  
164 withheld under Section 59-10-402, a refund shall be made to the employer only to the extent  
165 that the amount of overpayment is not deducted and withheld by the employer.

166           (11) If there is no tax liability for a period in which an amount is paid under this  
167 chapter, the amount is an overpayment.

168           (12) If a tax under this chapter is assessed or collected after the expiration of the  
169 applicable period of limitation, that amount is an overpayment.

170 (13) (a) A taxpayer may file a claim for a credit or refund of an overpayment within  
171 two years from the date a notice of change, notice of correction, or amended return is required  
172 to be filed with the commission if the taxpayer is required to:

173 (i) report a change or correction in income reported on the taxpayer's federal income  
174 tax return;

175 (ii) report a change or correction that is treated in the same manner as if the change or  
176 correction were an overpayment for federal income tax purposes; or

177 (iii) file an amended return with the commission.

178 (b) If a report or amended return is not filed within 90 days, interest on any resulting  
179 refund or credit ceases to accrue after the 90-day period.

180 (c) The amount of the credit or refund may not exceed the amount of the reduction in  
181 tax attributable to the federal change, correction, or items amended on the taxpayer's amended  
182 federal income tax return.

183 (d) Except as provided in Subsection (13)(a), this Subsection (13) does not affect the  
184 amount or the time within which a claim for credit or refund may be filed.

185 (14) A credit or refund may not be allowed or made if an overpayment is less than \$1.

186 (15) The amount of a credit or refund may not exceed the tax paid during the three  
187 years immediately preceding the filing of the claim, or if no claim is filed, then during the  
188 three years immediately preceding the allowance of the credit or refund.

189 (16) In the case of an overpayment of tax by an employer under Part 4, Withholding of  
190 Tax, a refund or credit shall be made to the employer only to the extent that the amount of the  
191 overpayment is not deducted and withheld from wages under this chapter.

192 (17) (a) If a taxpayer that is allowed a refund under this chapter dies, the commission  
193 may make payment to the personal representative of the taxpayer's estate.

194 (b) If there is no personal representative of the taxpayer's estate, payment may be made  
195 to those persons who establish entitlement to inherit the property of the decedent in the  
196 proportions established in Title 75, Utah Uniform Probate Code.

197 (18) If an overpayment relates to a change in net income described in Subsection

198 59-10-536(2)(a), a credit may be allowed or a refund paid any time before the expiration of the  
199 period within which a deficiency may be assessed.

200 (19) An overpayment of a tax imposed by this chapter shall accrue interest at the rate  
201 and in the manner prescribed in Section 59-1-402.

202 Section 3. Section **77-10a-2** is amended to read:

203 **77-10a-2. Panel of judges -- Appointment -- Membership -- Ordering of grand**  
204 **jury.**

205 (1) (a) The presiding officer of the Judicial Council shall appoint a panel of five  
206 judges from the district courts of the state to hear in secret all persons claiming information  
207 that would justify the calling of a grand jury. The presiding officer may appoint senior status  
208 district court judges to the panel. The presiding officer shall designate one member of the  
209 panel as supervising judge to serve at the pleasure of the presiding officer. The panel has the  
210 authority of the district court.

211 (b) To ensure geographical diversity on the panel one judge shall be appointed from  
212 the first or second district for a five-year term, one judge shall be appointed from the third  
213 district for a four-year term, one judge shall be appointed from the fourth district for a  
214 three-year term, one judge shall be appointed from the fifth, sixth, seventh, or eighth districts  
215 for a two-year term, and one judge shall be appointed from the third district for a one-year  
216 term. Following the first term, all terms on the panel are for five years.

217 (c) The panel shall [~~hold~~] schedule hearings in each judicial district at least once every  
218 three years and may meet at any location within the state. Three members of the panel  
219 constitute a quorum for the transaction of panel business. The panel shall act by the  
220 concurrence of a majority of members present and may act through the supervising judge or  
221 managing judge. The schedule for the hearings shall be set by the panel and published by the  
222 Office of the Court Administrator. Persons who desire to appear before the panel shall  
223 schedule an appointment with the Office of the Court Administrator at least 10 days in  
224 advance. If no appointments are scheduled, the hearing may be canceled. Persons appearing  
225 before the panel shall be placed under oath and examined by the judges conducting the

226 hearings. Hearsay evidence may be presented at the hearings only under the same provisions  
227 and limitations that apply to preliminary hearings.

228 (2) (a) If the panel finds good cause to believe a grand jury is necessary, the panel  
229 shall make its findings in writing and may order a grand jury to be summoned.

230 (b) The panel may refer a matter to the attorney general, county attorney, district  
231 attorney, or city attorney for investigation and prosecution. The referral shall contain as much  
232 of the information presented to the panel as the panel determines relevant. The attorney  
233 general, county attorney, district attorney, or city attorney shall report to the panel the results  
234 of any investigation and whether the matter will be prosecuted by a prosecutor's information.  
235 The report shall be filed with the panel within 120 days after the referral unless the panel  
236 provides for a different amount of time. If the panel is not satisfied with the action of the  
237 attorney general, county attorney, district attorney, or city attorney, the panel may order a  
238 grand jury to be summoned.

239 (3) When the attorney general, a county attorney, a district attorney, or a special  
240 prosecutor appointed under Section 77-10a-12 certifies in writing to the supervising judge that  
241 in his judgment a grand jury is necessary because of criminal activity in the state, the panel,  
242 upon a determination of good cause, shall order a grand jury to be summoned.

243 (4) The supervising judge may at the time the grand jury is summoned:

244 (a) order that it be drawn from the state at large as provided in this chapter or from any  
245 district within the state; and

246 (b) retain authority to supervise the grand jury or delegate the supervision of the grand  
247 jury to any judge of any district court within the state.

248 Section 4. Section **78A-2-229** is enacted to read:

249 **78A-2-229. References to court pleadings and other papers.**

250 Any reference in this code to a petition, complaint, or other court record shall be  
251 considered to include any cover sheet or accompanying document required by statute or court  
252 rule to be filed with the petition, complaint, or other record.

253 Section 5. Section **78A-2-402** is amended to read:

254 **78A-2-402. Definitions.**

255 As used in this part:

256 (1) "Certified court reporter" has the same meaning as in Title 58, Chapter 74,  
257 Certified Court Reporters Licensing Act.

258 (2) "Folio" means 100 words. A number expressed as a numeral counts as one word;  
259 however, any portion of the last folio is not counted.

260 [~~(3) "Official court reporter" means a certified court reporter employed by the courts.]~~

261 [~~(4)~~ (3) "Official court transcriber" means a person certified in accordance with rules  
262 of the Judicial Council as competent to transcribe into written form an audio or video  
263 recording of court proceedings.

264 Section 6. Section **78A-2-405** is amended to read:

265 **78A-2-405. Record of court proceedings.**

266 [~~(1)~~] The Judicial Council shall by rule provide for the means of maintaining the  
267 record of proceedings in the courts of record by official court reporters or by electronic  
268 recording devices.

269 [~~(2) The official court reporter assigned to a session of court shall take full verbatim  
270 stenographic notes of the session, except when the judge dispenses with the verbatim record.]~~

271 [~~(3) The official court reporter shall immediately file with the clerk of the court the  
272 original stenographic notes of the court session and the computer disk on which the notes are  
273 stored. If not already on file with the clerk of the court, the official court reporter shall file a  
274 computer disk containing the reporter's most current dictionary showing the meaning of the  
275 reporter's stenographic notes.]~~

276 [~~(4) Upon request and the payment of fees established by Section 78A-2-408, the  
277 official court reporter shall transcribe the stenographic notes or video or audio recording of the  
278 court session and furnish the transcript to the requesting party.]~~

279 Section 7. Section **78A-2-408** is amended to read:

280 **78A-2-408. Transcripts and copies -- Fees.**

281 (1) The Judicial Council shall by rule provide for a standard page format for

282 transcripts of court hearings.

283 (2) (a) The fee for a transcript of a court session, or any part of a court session, shall be  
 284 \$3.50 per page, which includes the initial preparation of the transcript and one certified copy.  
 285 The preparer shall deposit the original text file and printed transcript with the clerk of the court  
 286 and provide the person requesting the transcript with the certified copy. The cost of additional  
 287 copies shall be as provided in Subsection 78A-2-301(1). The transcript for an appeal shall be  
 288 prepared within the time period permitted by the rules of Appellate Procedure. The fee for a  
 289 transcript prepared within three business days of the request shall be 1-1/2 times the base rate.  
 290 The fee for a transcript prepared within one business day of the request shall be double the  
 291 base rate.

292 (b) When a transcript is ordered by the court, the fees shall be paid by the parties to  
 293 the action in equal proportion or as ordered by the court. The fee for a transcript in a criminal  
 294 case in which the defendant is found to be impecunious shall be paid pursuant to Section  
 295 77-32-305.

296 (c) There is established within the General Fund a restricted account known as the  
 297 Court Reporting Technology Account. The clerk of the court shall transfer to the state  
 298 treasurer for deposit into this account all fees received under this section. The state court  
 299 administrator may draw upon this account for the purchase, development, and maintenance of  
 300 court reporting technologies and for other expenses necessary for maintaining a verbatim  
 301 record of court sessions.

302 (3) The fee for the preparation of a transcript of a court hearing by an official court  
 303 transcriber [~~other than an official court reporter~~] and the fee for the preparation of the  
 304 transcript by a certified [~~shorthand~~] court reporter of a hearing before any court, referee,  
 305 master, board, or commission of this state shall be as provided in Subsection (2)(a), and shall  
 306 be payable to the person preparing the transcript.

307 Section 8. Section **78A-2-409** is amended to read:

308 **78A-2-409. Certified transcripts prima facie correct.**

309 A transcript of [~~an official~~] a certified court reporter's notes, written in longhand or

310 typewritten, certified by the court reporter as being a correct transcript of evidence and  
311 proceedings, is prima facie a correct statement of the evidence and proceedings.

312 Section 9. Section **78A-5-102** is amended to read:

313 **78A-5-102. Jurisdiction -- Appeals.**

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

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

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

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

322 (5) The district court has appellate jurisdiction over judgments and orders of the  
323 justice court as outlined in Section 78A-7-118 and small claims appeals filed pursuant to  
324 Section 78A-8-106.

325 (6) Appeals from the final orders, judgments, and decrees of the district court are  
326 under Sections 78A-3-102 and 78A-4-103.

327 (7) The district court has jurisdiction to review:

328 (a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4,  
329 Administrative Procedures Act, and shall comply with the requirements of that chapter, in its  
330 review of agency adjudicative proceedings; and

331 (b) municipal administrative proceedings in accordance with Section 10-3-703.7.

332 (8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in  
333 class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only  
334 if:

335 (a) there is no justice court with territorial jurisdiction;

336 (b) the offense occurred within the boundaries of the municipality in which the district  
337 courthouse is located and that municipality has not formed, or has not formed and then

338 dissolved, a justice court; or

339 (c) they are included in an indictment or information covering a single criminal  
340 episode alleging the commission of a felony or a class A misdemeanor.

341 (9) If the district court has subject matter jurisdiction pursuant to Subsection (5) or  
342 (8), it also has jurisdiction over offenses listed in Section 78A-7-106 even if those offenses are  
343 committed by a person 16 years of age or older.

344 (10) The district court has jurisdiction of actions under Title 78B, Chapter 7, Part 2,  
345 Child Protective Orders, if the juvenile court transfers the case to the district court.

346 Section 10. Section **78A-6-115** is amended to read:

347 **78A-6-115. Hearings -- Record -- County attorney or district attorney**  
348 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**  
349 **evidence.**

350 (1) (a) A verbatim record of the proceedings shall be taken [~~by an official court~~  
351 ~~reporter or by means of a mechanical recording device~~] in all cases that might result in  
352 deprivation of custody as defined in this chapter. In all other cases a verbatim record shall  
353 also be made unless dispensed with by the court.

354 (b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2,  
355 Government Records Access and Management Act, a record of a proceeding made under  
356 Subsection (1)(a) shall be released by the court to any person upon a finding on the record for  
357 good cause.

358 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the  
359 court shall:

360 (A) provide notice to all subjects of the record that a request for release of the record  
361 has been made; and

362 (B) allow sufficient time for the subjects of the record to respond before making a  
363 finding on the petition.

364 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the  
365 court's jurisdiction over the subjects of the proceeding ended more than 12 months prior to the

366 request.

367 (iv) For purposes of this Subsection (1)(b):

368 (A) "record of a proceeding" does not include documentary materials of any type  
369 submitted to the court as part of the proceeding, including items submitted under Subsection  
370 (4)(a); and

371 (B) "subjects of the record" includes the child's guardian ad litem, the child's legal  
372 guardian, the Division of Child and Family Services, and any other party to the proceeding.

373 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a  
374 prosecution district, the district attorney shall represent the state in any proceeding in a minor's  
375 case.

376 (b) The attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child  
377 and Family Services, and this chapter, relating to:

378 (i) protection or custody of an abused, neglected, or dependent child; and

379 (ii) petitions for termination of parental rights.

380 (c) The attorney general shall represent the Division of Child and Family Services in  
381 actions involving a minor who is not adjudicated as abused or neglected, but who is otherwise  
382 committed to the custody of that division by the juvenile court, and who is classified in the  
383 division's management information system as having been placed in custody primarily on the  
384 basis of delinquent behavior or a status offense. Nothing in this Subsection (2)(c) may be  
385 construed to affect the responsibility of the county attorney or district attorney to represent the  
386 state in those matters, in accordance with the provisions of Subsection (2)(a).

387 (3) The board may adopt special rules of procedure to govern proceedings involving  
388 violations of traffic laws or ordinances, wildlife laws, and boating laws. However,  
389 proceedings involving offenses under Section 78A-6-606 are governed by that section  
390 regarding suspension of driving privileges.

391 (4) (a) For the purposes of determining proper disposition of the minor in dispositional  
392 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings  
393 and in hearings upon petitions for termination of parental rights, written reports and other

394 material relating to the minor's mental, physical, and social history and condition may be  
395 received in evidence and may be considered by the court along with other evidence. The court  
396 may require that the person who wrote the report or prepared the material appear as a witness  
397 if the person is reasonably available.

398 (b) For the purpose of determining proper disposition of a minor alleged to be or  
399 adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division  
400 under Section 78A-6-315 may be received in evidence and may be considered by the court  
401 along with other evidence. The court may require any person who participated in preparing  
402 the dispositional report to appear as a witness, if the person is reasonably available.

403 (5) (a) In an abuse, neglect, or dependency proceeding occurring after the  
404 commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under  
405 Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or  
406 their counsel any information which the party:

407 (i) plans to report to the court at the proceeding; or

408 (ii) could reasonably expect would be requested of the party by the court at the  
409 proceeding.

410 (b) The disclosure required under Subsection (5)(a) shall be made:

411 (i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than  
412 five days before the proceeding;

413 (ii) for proceedings under Title 78A, Chapter 6, Part 5, Termination of Parental Rights  
414 Act, in accordance with Utah Rules of Civil Procedure; and

415 (iii) for all other proceedings, no less than five days before the proceeding.

416 (c) If a party to a proceeding obtains information after the deadline in Subsection  
417 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the  
418 party certifies to the court that the information was obtained after the deadline.

419 (d) Subsection (5)(a) does not apply to:

420 (i) pretrial hearings; and

421 (ii) the frequent, periodic review hearings held in a dependency drug court case to

422 assess and promote the parent's progress in substance abuse treatment.

423 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court  
424 may, in its discretion, consider evidence of statements made by a child under eight years of  
425 age to a person in a trust relationship.

426 Section 11. Section **78A-7-106** is amended to read:

427 **78A-7-106. Jurisdiction.**

428 (1) Justice courts have jurisdiction over class B and C misdemeanors, violation of  
429 ordinances, and infractions committed within their territorial jurisdiction by a person 18 years  
430 of age or older.

431 (2) Except those offenses over which the juvenile court has exclusive jurisdiction,  
432 justice courts have jurisdiction over the following class B and C misdemeanors, violation of  
433 ordinances, and infractions committed within their territorial jurisdiction by a person 16 years  
434 of age or older:

435 (a) Title 23, Wildlife Resources Code of Utah;

436 (b) Title 41, Chapter 1a, Motor Vehicle Act;

437 (c) Title 41, Chapter 6a, Traffic Code;

438 (d) Title 41, Chapter 12a, [~~Motor Vehicle Financial Responsibility~~] Financial  
439 Responsibility of Owners and Operators Act;

440 (e) Title 41, Chapter 22, Off-Highway Vehicles;

441 (f) Title 73, Chapter 18, Safe Boating Act;

442 (g) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

443 (h) Title 73, Chapter 18b, Water Safety; and

444 (i) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators  
445 Act.

446 (3) Justice Courts have jurisdiction over class C misdemeanor violations of Title 53,  
447 Chapter 3, Part 2, Driver Licensing Act.

448 (4) As used in this section, "the court's jurisdiction" means the territorial jurisdiction  
449 of a justice court.

450 (5) An offense is committed within the territorial jurisdiction of a justice court if:  
451 (a) conduct constituting an element of the offense or a result constituting an element  
452 of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result  
453 is itself unlawful;

454 (b) either a person committing an offense or a victim of an offense is located within  
455 the court's jurisdiction at the time the offense is committed;

456 (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs  
457 within the court's jurisdiction;

458 (d) a person commits any act constituting an element of an inchoate offense within the  
459 court's jurisdiction, including an agreement in a conspiracy;

460 (e) a person solicits, aids, or abets, or attempts to solicit, aid, or abet another person in  
461 the planning or commission of an offense within the court's jurisdiction;

462 (f) the investigation of the offense does not readily indicate in which court's  
463 jurisdiction the offense occurred, and:

464 (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft  
465 passing within the court's jurisdiction;

466 (ii) (A) the offense is committed on or in any body of water bordering on or within this  
467 state if the territorial limits of the justice court are adjacent to the body of water; and  
468 (B) as used in Subsection (3)(f)(ii)(A), "body of water" includes any stream, river,  
469 lake, or reservoir, whether natural or man-made;

470 (iii) a person who commits theft exercises control over the affected property within the  
471 court's jurisdiction; or

472 (iv) the offense is committed on or near the boundary of the court's jurisdiction;

473 (g) the offense consists of an unlawful communication that was initiated or received  
474 within the court's jurisdiction; or

475 (h) jurisdiction is otherwise specifically provided by law.

476 (6) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,  
477 Small Claims Courts, if a defendant resides in or the debt arose within the territorial

478 jurisdiction of the justice court.

479 (7) A justice court judge may transfer a matter in which the defendant is a child to the  
480 juvenile court for further proceedings after judgment in the justice court.

481 (8) The court may issue all extraordinary writs and other writs necessary to carry into  
482 effect its orders, judgments, and decrees.

483 Section 12. Section **78A-8-105** is amended to read:

484 **78A-8-105. Civil filing fees.**

485 (1) Except as provided in this section, the fees for a small claims action in justice  
486 court shall be the same as provided in Section 78A-2-301.

487 (2) Fees collected in small claims actions filed in municipal justice court are remitted  
488 to the municipal treasurer. Fees collected in small claims actions filed in a county justice  
489 court are remitted to the county treasurer.

490 ~~[(3)(a) Seven dollars and 50 cents shall be withheld from the fee for the small claims~~  
491 ~~affidavit and allocated to the Judges' Retirement Trust Fund. Five dollars shall be withheld~~  
492 ~~from the fee for a small claims counter affidavit and allocated to the Judges' Retirement Trust~~  
493 ~~Fund.]~~

494 ~~[(b) Four dollars withheld from the civil filing fee in a court of record as provided in~~  
495 ~~Subsection 51-9-408(4)(b) may not apply to the fees collected for small claims actions in~~  
496 ~~justice court.]~~

497 ~~[(4)]~~ (3) The fee in the justice court for filing a notice of appeal for trial de novo in a  
498 court of record is \$10. The fee covers all services of the justice court on appeal but does not  
499 satisfy the trial de novo filing fee in the court of record.

500 Section 13. Section **78B-7-107** is amended to read:

501 **78B-7-107. Hearings on ex parte orders.**

502 (1) (a) When a court issues an ex parte protective order the court shall set a date for a  
503 hearing on the petition within 20 days after the ex parte order is issued.

504 (b) If at that hearing the court does not issue a protective order, the ex parte protective  
505 order shall expire, unless it is otherwise extended by the court. Extensions beyond the 20-day

506 period may not be granted unless:

- 507 (i) the petitioner is unable to be present at the hearing;
- 508 (ii) the respondent has not been served;
- 509 (iii) the respondent has had the opportunity to present a defense at the hearing;
- 510 (iv) the respondent requests that the ex parte order be extended; or
- 511 (v) exigent circumstances exist.

512 (c) Under no circumstances may an ex parte order be extended beyond 180 days from  
513 the date of initial issuance.

514 (d) If at that hearing the court issues a protective order, the ex parte protective order  
515 remains in effect until service of process of the protective order is completed.

516 (e) A protective order issued after notice and a hearing is effective until further order  
517 of the court.

518 (f) If the hearing on the petition is heard by a commissioner, either the petitioner or  
519 respondent may file an objection within 10 days of the entry of the recommended order and  
520 the assigned judge shall hold a hearing within 20 days of the filing of the objection.

521 (2) Upon a hearing under this section, the court may grant any of the relief described  
522 in Section 78B-7-106.

523 (3) When a court denies a petition for an ex parte protective order or a petition to  
524 modify an order for protection ex parte, upon the request of the petitioner, the court shall set  
525 the matter for hearing [~~upon notice to the respondent~~] and notify the petitioner and serve the  
526 respondent.

527 (4) A respondent who has been served with an ex parte protective order may seek to  
528 vacate the ex parte protective order prior to the hearing scheduled pursuant to Subsection  
529 (1)(a) by filing a verified motion to vacate. The respondent's verified motion to vacate and a  
530 notice of hearing on that motion shall be personally served on the petitioner at least two days  
531 prior to the hearing on the motion to vacate.

532 Section 14. Section **78B-7-203** is amended to read:

533 **78B-7-203. Hearing.**

534 (1) ~~[The] If an ex parte order is granted, the court shall schedule a hearing within 20~~  
535 ~~days after the ex parte determination. If an ex parte order is denied, the court, upon the request~~  
536 ~~of the petitioner, shall schedule a hearing within 20 days after the ex parte determination.~~

537 (2) The petition, ex parte child protective order, and notice of hearing shall be served  
538 on the respondent, the minor's parent or guardian, and, if appointed, the guardian ad litem.  
539 The notice shall contain:

- 540 (a) the name and address of the person to whom it is directed;
- 541 (b) the date, time, and place of the hearing;
- 542 (c) the name of the minor on whose behalf a petition is being brought; and
- 543 (d) a statement that a person is entitled to have an attorney present at the hearing.

544 (3) The court shall provide an opportunity for any person having relevant knowledge  
545 to present evidence or information. The court may hear statements by counsel.

546 (4) An agent of the division served with a subpoena in compliance with the Utah  
547 Rules of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.

548 (5) If the court determines, based on a preponderance of the evidence, that the minor is  
549 being abused or is in imminent danger of being abused, the court shall enter a child protective  
550 order. With the exception of the provisions of Section 78A-6-323, a child protective order  
551 does not constitute an adjudication of abuse, neglect, or dependency under Title 78A, Chapter  
552 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

553 **Section 15. Repealer.**

554 This bill repeals:

555 **Section 78A-2-406, Substitute reporters.**

556 **Section 78A-2-407, Compensation -- Traveling expenses -- Frequency of payment.**