

Joint Resolution Amending Rules of Civil Procedure on Injunctions

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This joint resolution amends the Utah Rules of Civil Procedure to address injunctions.

Highlighted Provisions:

This resolution:

- amends Utah Rules of Civil Procedure, Rule 65A, to address injunctions; and
- makes technical and conforming changes to Rule 65A.

Other Special Clauses:

This resolution provides a special effective date.

Utah Rules of Civil Procedure Affected:

AMENDS:

Rule 65A, Utah Rules of Civil Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. **Rule 65A**, Utah Rules of Civil Procedure is amended to read:

Rule 65A . Injunctions.

(a) Preliminary injunctions.

[(a)](1) **Notice.** No preliminary injunction shall be issued without notice to the adverse party.

[(a)](2) **Consolidation of hearing.** Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this

consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible at the trial on the merits becomes part of the trial record and need not be repeated at the trial. This ~~[subdivision]~~ paragraph (a)(2) shall be so construed and applied as to save to the parties any rights they may have to trial by jury.

(b) Temporary restraining orders.

~~[(b)]~~(1) **Notice.** No temporary restraining order shall be granted without notice to the adverse party or that party's attorney unless:

____ (A) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition~~[-]~~ ; and

____ (B) the applicant or the applicant's attorney certifies to the court in writing as to the efforts, if any, that have been made to give notice and the reasons supporting the claim that notice should not be required.

~~[(b)]~~(2) **Form of order.** Every temporary restraining order shall be endorsed with the date and hour of issuance and shall be filed forthwith in the clerk's office and entered of record. The order shall define the injury and state why it is irreparable. The order shall expire by its terms within such time after entry, not to exceed 14 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record.

~~[(b)]~~(3) **Priority of hearing.** If a temporary restraining order is granted, the motion for a preliminary injunction shall be scheduled for hearing at the earliest possible time and takes precedence over all other civil matters except older matters of the same character. When the motion comes on for hearing, the party who obtained the temporary restraining order shall have the burden to show entitlement to a preliminary injunction; if the party does not do so, the court shall dissolve the temporary restraining order.

~~[(b)]~~(4) **Dissolution or modification.** On 48 hours' notice to the party who obtained the temporary restraining order without notice, or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification. In that event the court shall proceed to hear and determine the motion as expeditiously as the ends of justice require.

(c) Filing requirements for a temporary restraining order or preliminary injunction of a state law.

____ (1) **Definition.** As used in this paragraph (c), "state law" means a state statute, a

proposed amendment to the Utah Constitution, or any other legislation passed by the Legislature.

(2) Temporary restraining order for a state law with delayed implementation.

(A) An applicant must file a motion for a temporary restraining order at least 45 days before a state law takes effect if:

(i) the state law takes effect more than 60 days after the day on which the Legislature adjourns sine die from the general or special session in which the Legislature passed the state law;

(ii) the applicant is challenging the constitutionality of the state law; and

(iii) the applicant seeks to enjoin the execution or enforcement of the state law before the state law becomes effective.

(B) If an applicant fails to bring a motion for a temporary restraining order under paragraph (c)(3)(A) before the 45-day requirement, the applicant may not bring a motion for a temporary restraining order to enjoin the execution or enforcement of the state law until the state law has been in effect for at least 90 days.

(C) This paragraph (c)(2) does not preclude an applicant from bringing a motion for a preliminary injunction to enjoin the execution or enforcement of a state law that takes effect more than 60 days after the day on which the Legislature adjourns sine die from the general or special session in which the Legislature passed the state law.

(3) Response to motion for temporary restraining order or preliminary injunction.

Notwithstanding the filing deadline for a response to a motion under Rule 7 of the Utah Rules of Civil Procedure, an adverse party must file a response to a motion for a temporary restraining order or preliminary injunction within 28 days after a motion is filed if:

(A) the applicant is challenging the constitutionality of the state law; and

(B) the applicant seeks to enjoin the execution or enforcement of the state law before the state law becomes effective.

[(e)] (d) Security.

[(e)](1) **Requirement.** The court shall condition issuance of the order or injunction on the giving of security by the applicant, in such sum and form as the court deems proper, unless it appears that none of the parties will incur or suffer costs, attorney fees or damage as the result of any wrongful order or injunction, or unless there exists some other substantial reason for dispensing with the requirement of security. No such security shall be required of the United States, the State of Utah, or of an officer, agency, or subdivision of either; nor shall it be required when it is prohibited by law.

97 [(e)](2) **Amount not a limitation.** The amount of security shall not establish or limit the
98 amount of costs, including reasonable attorney fees incurred in connection with the restraining
99 order or preliminary injunction, or damages that may be awarded to a party who is found to
100 have been wrongfully restrained or enjoined.

101 [(e)](3) **Jurisdiction over surety.** A surety upon a bond or undertaking under this rule
102 submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as agent
103 upon whom any papers affecting the surety's liability on the bond or undertaking may be
104 served. The surety's liability may be enforced on motion without the necessity of an
105 independent action. The motion and such notice of the motion as the court prescribes may be
106 served on the clerk of the court who shall forthwith mail copies to the persons giving the
107 security if their addresses are known.

108 [(d)] (e) **Form and scope.** Every restraining order and order granting an injunction shall set
109 forth the reasons for its issuance. It shall be specific in terms and shall describe in reasonable
110 detail, and not by reference to the complaint or other document, the act or acts sought to be
111 restrained. It shall be binding only upon the parties to the action, their officers, agents,
112 servants, employees, and attorneys, and upon those persons in active concert or participation
113 with them who receive notice, in person or through counsel, or otherwise, of the order. If a
114 restraining order is granted without notice to the party restrained, it shall state the reasons
115 justifying the court's decision to proceed without notice.

116 [(e)] (f) **Grounds.** A restraining order or preliminary injunction may issue only upon a
117 showing by the applicant that:

118 [(e)](1) there is a substantial likelihood that the applicant will prevail on the merits of
119 the underlying claim:

120 [(e)](2) the applicant will suffer irreparable harm unless the order or injunction issues;

121 [(e)](3) the threatened injury to the applicant outweighs whatever damage the proposed
122 order or injunction may cause the party restrained or enjoined; and

123 [(e)](4) the order or injunction, if issued, would not be adverse to the public interest.

124 [(f)] (g) **Motion for reconsideration.**

125 [(f)](1) A party enjoined or restrained by a restraining order or a preliminary injunction
126 on February 14, 2023, may move the court to reconsider whether the order or injunction
127 should remain in effect if the order or injunction:

128 (A) is in writing;

129 (B) is restraining or enjoining the enforcement of a law; and

130 (C) explicitly states that the court granted the order or injunction on the ground that

131 the case presented serious issues on the merits which should be the subject of further litigation.

132 ~~[(f)]~~(2) A motion for reconsideration under this paragraph ~~[(f)]~~ (g) may be filed at any
133 time before the final determination of the case.

134 ~~[(f)]~~(3) Upon a motion for reconsideration, the court must determine whether the
135 issuance of the restraining order or preliminary injunction meets the requirements in paragraph [
- 136 ~~(e)~~] (f) regardless of the requirements for the issuance of the order or injunction on the day on
137 which the order or injunction was issued.

138 ~~[(f)]~~(4) If the court determines that the issuance of the restraining order or preliminary
139 injunction does not meet the requirements of paragraph [~~(e)~~] (f), the court must terminate the
140 order or injunction.

141 ~~[(g)]~~ (h) **Domestic relations cases.** Nothing in this rule shall be construed to limit the
142 equitable powers of the courts in domestic relations cases.

143 Section 2. **Effective date.**

144 As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect
_ 145 upon a two-thirds vote of all members elected to each house.