

Brady Brammer proposes the following substitute bill:

Right to Appeal Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses a right to an appeal of an injunctive order.

Highlighted Provisions:

This bill:

- modifies the appellate jurisdiction of the Supreme Court and Court of Appeals;
- defines terms related to a civil action in which a trial court grants an injunctive order restraining the execution or enforcement of a state law;
- grants a right to an appeal of an injunctive order in certain circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-3-102, as last amended by Laws of Utah 2009, Chapter 344

78A-4-103, as last amended by Laws of Utah 2023, Chapter 516

ENACTS:

78B-5-1001, Utah Code Annotated 1953

78B-5-1002, Utah Code Annotated 1953

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

Section 1. Section **78A-3-102** is amended to read:

78A-3-102 . Supreme Court jurisdiction.

- (1) The Supreme Court has original jurisdiction to answer questions of state law certified

- 29 by a court of the United States.
- 30 (2) The Supreme Court has original jurisdiction to issue all extraordinary writs and
31 authority to issue all writs and process necessary to carry into effect [its] the Supreme
32 Court's orders, judgments, and decrees or in aid of its jurisdiction.
- 33 (3) The Supreme Court has appellate jurisdiction, including jurisdiction of interlocutory
34 appeals, over:
- 35 (a) a judgment of the Court of Appeals;
- 36 (b) cases certified to the Supreme Court by the Court of Appeals prior to final judgment
37 by the Court of Appeals;
- 38 (c) discipline of lawyers;
- 39 (d) final orders of the Judicial Conduct Commission;
- 40 (e) final orders and decrees in formal adjudicative proceedings originating with:
- 41 (i) the Public Service Commission;
- 42 (ii) the State Tax Commission;
- 43 (iii) the School and Institutional Trust Lands Board of Trustees;
- 44 (iv) the Board of Oil, Gas, and Mining;
- 45 (v) the state engineer; or
- 46 (vi) the executive director of the Department of Natural Resources reviewing actions
47 of the Division of Forestry, Fire, and State Lands;
- 48 (f) final orders and decrees of the district court review of informal adjudicative
49 proceedings of agencies under Subsection (3)(e);
- 50 (g) a final judgment or decree of any court of record holding a statute of the United
51 States or this state unconstitutional on its face under the Constitution of the United
52 States or the Utah Constitution;
- 53 (h) interlocutory appeals from any court of record involving a charge of a first degree or
54 capital felony;
- 55 (i) appeals from the district court involving a conviction or charge of a first degree
56 felony or capital felony;
- 57 (j) orders, judgments, and decrees of any court of record over which the Court of
58 Appeals does not have original appellate jurisdiction;[-and]
- 59 (k) appeals from the district court of orders, judgments, or decrees ruling on legislative
60 subpoenas[-] ; and
- 61 (l) an appeal of an injunctive order as described in Section 78B-5-1002.
- 62 (4) The Supreme Court may transfer to the Court of Appeals any of the matters over which

- 63 the Supreme Court has original appellate jurisdiction, except for:
- 64 (a) capital felony convictions or an appeal of an interlocutory order of a court of record
65 involving a charge of a capital felony;
- 66 (b) election and voting contests;
- 67 (c) reapportionment of election districts;
- 68 (d) retention or removal of public officers;
- 69 (e) matters involving legislative subpoenas; and
- 70 (f) ~~[those matters described in Subsections (3)(a) through (d).]~~ a matter described in
71 Subsections (3)(a) through (d) or Subsection (3)(l).
- 72 (5) The Supreme Court has sole discretion in granting or denying a petition for writ of
73 certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall
74 review those cases certified to ~~[it]~~ the Supreme Court by the Court of Appeals under
75 Subsection (3)(b).
- 76 (6) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4,
77 Administrative Procedures Act, in ~~[its]~~ the Supreme Court's review of agency
78 adjudicative proceedings.
- 79 Section 2. Section **78A-4-103** is amended to read:
- 80 **78A-4-103 . Court of Appeals jurisdiction.**
- 81 (1) As used in this section, "adjudicative proceeding" does not include a proceeding under
82 Title 63G, Chapter 2, Part 4, Appeals, that precedes judicial review under Section
83 63G-2-404.
- 84 (2) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all
85 writs and process necessary:
- 86 (a) to carry into effect ~~[its]~~ the judgments, orders, and decrees of the Court of Appeals; or
87 (b) in aid of ~~[its]~~ the jurisdiction of the Court of Appeals.
- 88 (3) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory
89 appeals, over:
- 90 (a)(i) a final order or decree resulting from:
- 91 (A) a formal adjudicative proceeding of a state agency;
- 92 (B) a special adjudicative proceeding, as described in Section 19-1-301.5; or
93 (C) a hearing before a local school board or the State Board of Education as
94 described in Section 53G-11-515; or
- 95 (ii) an appeal from the district court review of an informal adjudicative proceeding of
96 an agency other than the following:

- 97 (A) the Public Service Commission;
- 98 (B) the State Tax Commission;
- 99 (C) the School and Institutional Trust Lands Board of Trustees;
- 100 (D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the
- 101 executive director of the Department of Natural Resources;
- 102 (E) the Board of Oil, Gas, and Mining; or
- 103 (F) the state engineer;
- 104 (b) appeals from the district court review of:
- 105 (i) adjudicative proceedings of agencies of political subdivisions of the state or other
- 106 local agencies; and
- 107 (ii) a challenge to agency action under Section 63G-3-602;
- 108 (c) appeals from the juvenile courts;
- 109 (d) interlocutory appeals from any court of record in criminal cases, except those
- 110 involving a charge of a first degree or capital felony;
- 111 (e) appeals from a court of record in criminal cases, except those involving a conviction
- 112 or charge of a first degree felony or capital felony;
- 113 (f) appeals from orders on petitions for extraordinary writs sought by persons who are
- 114 incarcerated or serving any other criminal sentence, except for petitions constituting a
- 115 challenge to a conviction of or the sentence for a first degree or capital felony;
- 116 (g) appeals from the orders on petitions for extraordinary writs challenging the decisions
- 117 of the Board of Pardons and Parole except in cases involving a first degree or capital
- 118 felony;
- 119 (h) appeals from district court involving domestic relations cases, including, but not
- 120 limited to, divorce, annulment, property division, child custody, support, parent-time,
- 121 visitation, adoption, and paternity;
- 122 (i) appeals from the Utah Military Court; and
- 123 (j) cases transferred to the Court of Appeals from the Supreme Court.
- 124 (4) The Court of Appeals does not have appellate jurisdiction over an appeal of an
- 125 injunctive order described in Section 78B-5-1002.
- 126 ~~[(4)]~~ (5) The Court of Appeals upon its own motion only and by the vote of four judges of
- 127 the court may certify to the Supreme Court for original appellate review and
- 128 determination any matter over which the Court of Appeals has original appellate
- 129 jurisdiction.
- 130 ~~[(5)]~~ (6) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4,

131 Administrative Procedures Act, in its review of agency adjudicative proceedings.

132 Section 3. Section **78B-5-1001** is enacted to read:

133 **CHAPTER 5. TRIAL, JUDGMENT, AND APPEAL**

134 **Part 10. Appeals**

135 **78B-5-1001 . Definitions for part.**

136 Reserved.

137 Section 4. Section **78B-5-1002** is enacted to read:

138 **78B-5-1002 . Right to an appeal of an injunctive order.**

139 (1) As used in this section:

140 (a) "Defendant" means a defendant in the civil action or a party affected by the
141 injunctive order.

142 (b) "Governmental entity" means the state, a county, a municipality, a special district, a
143 special service district, a school district, a state institution of higher education, or any
144 other political subdivision or administrative unit of the state.

145 (c) "Injunctive order" means a temporary restraining order, a preliminary injunction, a
146 permanent injunction, or any order or judgment that restrains or enjoins the execution
147 or enforcement of a state law.

148 (d) "State law" means a state statute, a provision of the Utah Constitution, or any action
149 of the Legislature.

150 (2) A defendant has a right to an appeal of an injunctive order granted by a trial court of this
151 state in a civil action if the underlying claim for the injunctive order is that the state law
152 is unconstitutional on its face.

153 (3) If a governmental entity brings an appeal under Subsection (2), the governmental entity
154 is not required to post a bond for the appeal.

155 (4) This section applies to an action pending in a court of this state on and after May 7,
156 2025.

157 Section 5. **Effective Date.**

158 This bill takes effect on May 7, 2025.