

1 **Joint Resolution Amending Rules of Civil Procedure on Injunctions**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

House Sponsor:

2

3 **LONG TITLE**

4 **General Description:**

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

6 **Highlighted Provisions:**

7 This resolution:

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

10 **Other Special Clauses:**

11 This resolution provides a special effective date.

12 **Utah Rules of Civil Procedure Affected:**

13 AMENDS:

14 **Rule 65A**, Utah Rules of Civil Procedure

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

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

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

22 **Rule 65A . Injunctions.**

23 (a) **Preliminary injunctions.**

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

26 [(a)](2) **Consolidation of hearing.** Before or after the commencement of the hearing of
 27 an application for a preliminary injunction, the court may order the trial of the action on the
 28 merits to be advanced and consolidated with the hearing of the application. Even when this
 29 consolidation is not ordered, any evidence received upon an application for a preliminary
 30 injunction which would be admissible at the trial on the merits becomes part of the trial record

31 and need not be repeated at the trial. This ~~[subdivision]~~ paragraph (a)(2) shall be so construed
32 and applied as to save to the parties any rights they may have to trial by jury.

33 (b) **Temporary restraining orders.**

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

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

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

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

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

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

60 (c) Filing requirements for an injunction of a state law before effective date.

61 _____ (1) As used in this paragraph (c), "state law" means a state statute, a proposed
62 amendment to the Utah Constitution, or any other action by the Legislature.

63 _____ (2) An applicant must file a motion for a restraining order or preliminary injunction
64 within 28 days after the day on which the Legislature adjourns sine die from a general or

65 special session in which the Legislature enacted a state law if:

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

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

69 _____ (3) The adverse party to the motion described in paragraph (c)(2) must file a response
70 within 28 days after the day on which motion is filed.

71 _____ (4) The court may expedite a schedule for a motion described in this paragraph (c) if a
72 state law would take effect in less than 60 days after the day on which the Legislature adjourns
73 sine die from the general or special session in which the Legislature enacted the state law.

74 ~~[(e)]~~ **(d) Security.**

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

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

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

93 ~~[(d)]~~ **(e) Form and scope.** Every restraining order and order granting an injunction shall set
94 forth the reasons for its issuance. It shall be specific in terms and shall describe in reasonable
95 detail, and not by reference to the complaint or other document, the act or acts sought to be
96 restrained. It shall be binding only upon the parties to the action, their officers, agents,
97 servants, employees, and attorneys, and upon those persons in active concert or participation
98 with them who receive notice, in person or through counsel, or otherwise, of the order. If a

99 restraining order is granted without notice to the party restrained, it shall state the reasons
100 justifying the court's decision to proceed without notice.

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

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

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

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

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

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

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

113 (A) is in writing;

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

115 (C) explicitly states that the court granted the order or injunction on the ground that
116 the case presented serious issues on the merits which should be the subject of further litigation.

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

119 [(f)](3) Upon a motion for reconsideration, the court must determine whether the
120 issuance of the restraining order or preliminary injunction meets the requirements in paragraph [
121 (e)] (f) regardless of the requirements for the issuance of the order or injunction on the day on
122 which the order or injunction was issued.

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

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

128 Section 2. **Effective date.**

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