

# SJR006S02 compared with SJR006

~~{Omitted text}~~ shows text that was in SJR006 but was omitted in SJR006S02

inserted text shows text that was not in SJR006 but was inserted into SJR006S02

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## 1           **Joint Resolution Amending Court Rules {~~Regarding Medical Malpractice~~}**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. Sandall**

House Sponsor: Katy Hall

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### 3   **LONG TITLE**

#### 4   **General Description:**

5       This resolution amends ~~{ court rules to address medical malpractice actions }~~ the Utah Rules of Civil Procedure.

#### 6   **Highlighted Provisions:**

7       This resolution:

8       ▶ amends ~~{ Rule 42 of the }~~ Utah Rules of Civil Procedure , Rule 42, to address separate trials in a medical malpractice action~~{;}~~ and transfer to a district court panel;

10      ▶ makes technical and conforming changes~~{;}~~ ; and

11      ▶ includes a coordination clause with S.J.R. 5, Joint Resolution Amending the Utah Rules of Civil Procedure, to address the coordination clause in S.J.R. 5.

#### 13   **Money Appropriated in this Bill:**

14       None

#### 15   **Other Special Clauses:**

16       This resolution provides a special effective date.

17       This resolution provides a coordination clause.

## SJR006 compared with SJR006S02

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

19 AMENDS:

20 **Rule 42** , Utah Rules of Civil Procedure

21 **Utah Code Sections affected by Coordination Clause:**

22 **Rule 42** , as Utah Rules of Civil Procedure

23

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

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

30 Section 1. **Rule 42**, Utah Rules of Civil Procedure is amended to read:

31 **Rule 42.** {~~Consolidation; separate trials; venue transfer.~~}

(1) When actions involving a common question of law or fact or arising from the same  
transaction or occurrence are pending before the court in one or more judicial districts, the  
court may, on motion of any party or on the court's own initiative:

(A) order that the actions are consolidated in whole or in part for any purpose,  
including for discovery, other pretrial matters, or a joint hearing or trial;

(B) stay any or all of the proceedings in any action subject to the order;

(C) transfer any or all further proceedings in the actions to a location in which any of  
the actions is pending after consulting with the presiding judge of the receiving court; and

(D) make other such orders concerning proceedings therein as may tend to avoid  
unnecessary costs or delay.

(2) In determining whether to order consolidation and the appropriate location for the  
consolidated proceedings, the court may consider, among other factors:

(A) the complexity of the actions;

(B) the importance of any common question of fact or law to the determination of the  
actions;

(C) the risk of duplicative or inconsistent rulings, orders, or judgments;

(D) the case and records classification of each case as described in Rule 4-202.02 of  
the Utah Code of Judicial Administration;

## SJR006 compared with SJR006S02

(E) the relative procedural postures of the actions;

(F) the risk that consolidation may unreasonably delay the progress, increase the expense, or complicate the processing of any action;

(G) prejudice to any party that far outweighs the overall benefits of consolidation;

(H) the convenience of the parties, witnesses, and counsel; and

(I) the efficient utilization of judicial resources and the facilities and personnel of the court.

(3) A motion to consolidate may be filed or opposed by any party to either action to be consolidated, without seeking permission to intervene. The motion must be filed in and heard by the judge assigned to the first action filed and must be served on all parties in each parties in each action pursuant to Rule 5. A notice of the motion must be filed in each action. action pursuant to Rule 5. The movant must file in each action notice of the motion and notice of the order denying or granting the motion.

(4) If the court orders consolidation, the consolidated case will be heard by the judge assigned to the first action filed, unless otherwise ordered by the presiding judge or agreed upon by the originally assigned judges. The court will order that a single case number be used for all subsequent filings in the consolidated case.

For convenience or to avoid prejudice,

the court may :

case to another judge for good cause.

~~{(1) [The] Except as provided in paragraph (b)(2), the court in furtherance of convenience order }~~ (1) order that the consolidated matters be tried together or that a separate trial be held on third party claim, or of any separate issue or of any number of claims, cross claims, any one or more claims, crossclaims, counterclaims, third-party claims, or {issues} separate issues; or

(2) order that the consolidated matters be severed at any point and provide that the matters be treated as separate actions going forward, including that the severed matters be tried by either the judge in the consolidated matter or the originally assigned judge.

For a malpractice action against a health

~~{the court shall order: }~~

care provider, the factfinder may not prejudice a defendant by knowing or considering

## SJR006 compared with SJR006S02

evidence of the claimant's alleged losses for past medical expenses or the past cost of medical equipment before:

~~{liability}~~ (1) liability for the alleged losses has been established; and

(2) any claim or award of noneconomic damages, if any, for the alleged losses has been fully adjudicated or entered.

If the consolidation of actions would be otherwise appropriate but is

~~{to the the~~

~~defendant after liability of the defendant is established.}~~

not administratively possible, the judge assigned to the first action may order the court clerk to reassign the other actions to the judge assigned to the first action. Such actions will be treated for all purposes as if they were consolidated except that the actions will retain their separate case numbers, which must be included on all filings.

(1)

(A) On timely motion of any party, where transfer to a proper venue is available, the court must transfer any action filed in an improper venue.

(B) The court must give substantial deference to a plaintiff's choice of a proper venue.

(C) On timely motion of any party, a court may:

(i) transfer venue of any action, in whole or in part, to any other venue for any purpose, including for discovery, other pretrial matters, or a joint hearing or trial;

(ii) stay any or all of the proceedings in the action; and

(iii) make other such orders concerning proceedings therein to pursue the interests of justice and avoid unnecessary costs or delay.

(2)

(A) If a plaintiff filed the complaint in the district court and the action meets the jurisdictional requirements of the business and chancery court, a party may file a separate notice requesting transfer of the action to the business and chancery court.

(B) If a party makes a request to transfer ~~{and}~~ an action to the business and chancery court within 21 days after the appearance of the party:

(i) the district court must transfer the action to the business and chancery court

unless the district court determines that the transfer will prejudice the interests of justice; and

## SJR006 compared with SJR006S02

(ii) the district court may not give any deference to the plaintiff's choice to file the complaint in the district court.

(C) If a party makes a request to transfer an action to the business and chancery court more than 21 days after the appearance of the party, the district court may:

(i) give deference to the plaintiff's choice to file the complaint in the district court;

or

(ii) transfer the action to the business and chancery court if the factors described in paragraph [(d)(3)](e)(3) weigh in favor of transfer.

(D) A district court may not transfer the action to the business and chancery court under this rule if the action does not meet the jurisdictional requirements of the business and chancery court.

(3) On a motion under paragraph [

(d)(1)](e)(1) or (2), a court may consider, among other factors, whether the transfer will:

(A) increase the likelihood of a fair and impartial determination in the action;

(B) minimize expense or inconvenience to parties, witnesses, or the court;

(C) decrease delay;

(D) avoid hardship or injustice otherwise caused by:

(i) the venue requirements if the court is determining whether to transfer the

action to the appropriate venue under paragraph [(d)(1)](e)(1); or

(ii) keeping the action in the district court if the court is determining whether to

transfer the action to the business and chancery court under paragraph [(d)(2)](e)(2); and

(E) advance the interests of justice.

(4) The court may direct that specified parties pay the expenses, if any, of a transfer of an action to the appropriate venue or to the business and chancery court.

[(e)]

(1) [The Attorney General, the Governor, or the Legislature]A party may file a notice to convene a district court panel, as described in Utah Code section 78A-5-102.7, in an action in the district court if the notice to convene is filed within 45 days after:

(A) the day on which the action is commenced;

(B) the day on which the amended complaint is filed if the complaint is amended in the action; or

## SJR006 compared with SJR006S02

(C) February 13, 2026, if the action is pending in the district court on February 13, 2026.

(2) If [the Attorney General, the Governor, or the Legislature] a party files a notice to convene a district court panel, the district court judge assigned to the action at the time the notice is filed must:

(A) notify the presiding officer of the Judicial Council that the action must be transferred to a district court panel; and

(B) transfer the action to the district court panel convened to hear and decide the action.

(3) Upon the filing of a notice to convene a district court panel, the district court judge assigned to the action at the time the notice is filed may not sever any matter from the action or take any further action.

(4) A district court panel may transfer an action back to the district court judge assigned to the action at the time the notice was filed if:

(A) the party that filed the notice fails to pay the filing fee if a filing fee is required for the party; or

(B) the panel determines that the notice did not comply with paragraph (f)(1) or with the requirements in Utah Code section 78A-5-102.7.

155 Section 2. **Effective date.**

Effective Date.

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

158 Section 3. **Coordinating S.J.R. 6 with S.J.R. 5.**

If S.J.R. 6, Joint Resolution Amending Court Rules, and S.J.R. 5, Joint Resolution Amending the Utah Rules of Civil Procedure, both pass and become law, the Legislature intends that, on the date when both resolutions have passed and taken effect, the coordination clause in S.J.R. 5 that coordinates with S.J.R. 6 not take effect.

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