

Michael K. McKell proposes the following substitute bill:

District Court Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses civil actions in the district court.

Highlighted Provisions:

This bill:

- ▶ grants the attorney general an unconditional right to intervene in a civil action in the district court upon notice that a party is challenging the constitutionality of a statute;
- ▶ provides that the Utah Supreme Court has exclusive and original appellate jurisdiction over a judgment or order from a panel of three district court judges;
- ▶ provides that the attorney general, the governor, or the Legislature may file a notice to convene a three-judge panel in a civil action in the district court;
- ▶ requires a panel of three district court judges to be convened to hear and decide a civil action upon the filing of a notice to convene a district court panel;
- ▶ requires each judge of a district court panel to be randomly selected and from a different judicial district than the other judges on the panel;
- ▶ addresses the structure and voting process for a district court panel;
- ▶ provides that the statutory venue requirements for a civil action do not apply to an action before a district court panel;
- ▶ requires the Judicial Council to create a rule regarding the random selection process for a judge on a district court panel;
- ▶ addresses staffing of a district court panel; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **78A-3-102**, as last amended by Laws of Utah 2025, Second Special Session, Chapter 332 **78B-3a-102**, as enacted by Laws of Utah 2023, Chapter 401

33 ENACTS:

34 **67-5-41**, Utah Code Annotated 195335 **78A-5-102.7**, Utah Code Annotated 1953

36

37 *Be it enacted by the Legislature of the state of Utah:*38 Section 1. Section **67-5-41** is enacted to read:39 **67-5-41 . Right to intervene in action challenging constitutionality of a statute.**40 (1) The attorney general has an unconditional right to intervene in a civil action in a district
41 court upon receiving a notice under Utah Rules of Civil Procedure, Rule 24, that a party
42 is challenging the constitutionality of a statute in the civil action.43 (2) Intervention by the attorney general in accordance with Subsection (1) does not limit the
44 Legislature's unconditional right to intervene under Subsection 36-12-7(4).45 Section 2. Section **78A-3-102** is amended to read:46 **78A-3-102 . Jurisdiction of Supreme Court.**47 (1) The Supreme Court has original jurisdiction to answer questions of state law certified
48 by a court of the United States.49 (2) The Supreme Court has original jurisdiction to issue all extraordinary writs and
50 authority to issue all writs and process necessary to carry into effect the Supreme Court's
51 orders, judgments, and decrees or in aid of the jurisdiction of the Supreme Court.52 (3)(a) The Supreme Court has exclusive and original appellate jurisdiction, including
53 exclusive and original appellate jurisdiction of an interlocutory appeal, over:

54 (i) a judgment of the Court of Appeals;

55 (ii) a case certified to the Supreme Court by the Court of Appeals before final
56 judgment by the Court of Appeals;

57 (iii) the discipline of a lawyer;

58 (iv) a final order of the Judicial Conduct Commission;

59 (v) an interlocutory appeal from a court of record involving a capital felony;

60 (vi) an appeal from the district court involving a conviction or charge of a capital
61 felony;

62 (vii) an appeal from the district court of an order, judgment, or decree ruling on a

- 63 legislative subpoena;
- 64 (viii) an appeal of an injunctive order as described in Section 78B-5-1002;
- 65 (ix) a judgment, or an interlocutory appeal of an order, of a district court involving:
- 66 (A) an election or voting contest; or
- 67 (B) the establishment of boundaries of political districts for purposes of an
- 68 election;[~~and~~]
- 69 (x) the retention or removal of a public officer[~~;~~]; and
- 70 (xi) a judgment, or an interlocutory appeal of an order, from a district court panel
- 71 described in Section 78A-5-102.7.
- 72 (b) The Supreme Court may not transfer any matter described in Subsection (3)(a) to the
- 73 Court of Appeals.
- 74 (c) In a case involving an election or voting contest or the establishment of boundaries
- 75 of political districts for purposes of an election, a judgment is appealable to the
- 76 Supreme Court even if:
- 77 (i) a party files a motion or claim for attorney fees under Rule 73 of the Utah Rules of
- 78 Civil Procedure in the district court; and
- 79 (ii) the district court has not entered a dispositive order for that motion or claim.
- 80 (4)(a) In addition to Subsection (3)(a), the Supreme Court has original appellate
- 81 jurisdiction, including original appellate jurisdiction of an interlocutory appeal, over:
- 82 (i) a final agency action, as described in Section 63G-4-403, in a formal adjudicative
- 83 proceeding originating from:
- 84 (A) the Public Service Commission;
- 85 (B) the State Tax Commission;
- 86 (C) the School and Institutional Trust Lands Board of Trustees;
- 87 (D) the Board of Oil, Gas, and Mining;
- 88 (E) the state engineer; or
- 89 (F) the executive director of the Department of Natural Resources reviewing an
- 90 action of the Division of Forestry, Fire, and State Lands;
- 91 (ii) a final order or decree of the district court review of an informal adjudicative
- 92 proceeding of an agency described in Subsection (4)(a)(i);
- 93 (iii) a final judgment or decree of a court of record holding a statute of the United
- 94 States or this state is unconstitutional on its face under the Constitution of the
- 95 United States or the Utah Constitution;
- 96 (iv) an interlocutory appeal from a court of record involving a first degree felony;

97 (v) an appeal from a district court involving a conviction or charge of a first degree
98 felony; and

99 (vi) an order, judgment, or decree of a court of record over which the Court of
100 Appeals does not have appellate jurisdiction.

101 (b) The Supreme Court may transfer any matter described in Subsection (4)(a) to the
102 Court of Appeals.

103 (5)(a) The Supreme Court has sole discretion in granting or denying a petition for writ of
104 certiorari for the review of a Court of Appeals adjudication.

105 (b) Notwithstanding Subsection (5)(a), the Supreme Court shall review a case certified
106 to the Supreme Court by the Court of Appeals under Subsection (3)(a)(ii).

107 (6) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4,
108 Administrative Procedures Act, in the Supreme Court's review of an agency adjudicative
109 proceeding.

110 *The following section is affected by a revisor instruction at the end of this bill.*

111 Section 3. Section **78A-5-102.7** is enacted to read:

112 **78A-5-102.7 . Three-judge panel in the district court -- Requirements.**

113 (1) As used in this section:

114 (a) "Panel" means a panel of three district court judges that is convened under this
115 section to hear and decide an action.

116 (b)(i) "State entity" means the state or any agency, department, board, or commission
117 of the state.

118 (ii) "State entity" includes the Legislature and any committee of the Legislature.

119 (c)(i) "State official" means an individual elected or appointed to a state office.

120 (ii) "State official" includes:

121 (A) a member of the Legislature;

122 (B) the governor;

123 (C) the lieutenant governor;

124 (D) the state auditor;

125 (E) the state treasurer; and

126 (F) the attorney general.

127 (2)(a) If a civil action is brought in the district court and a state entity, or a state official
128 in the state official's capacity, is a party to the civil action, the attorney general, the
129 governor, or the Legislature may file a notice in the district court that a panel of three
130 district court judges must be convened to hear and decide the civil action.

- 131 (b) A notice to convene a panel under Subsection (2)(a):
132 (i) may not be challenged by any party; and
133 (ii) is not subject to judicial review.
- 134 (c)(i) The Legislature, a committee of the Legislature, or a member of the Legislature
135 in the member's capacity, must be a party to the civil action for the Legislature to
136 file a notice under Subsection (2)(a).
137 (ii) The governor, or a state official for the executive branch, must be a party to the
138 civil action for the governor to file a notice under Subsection (2)(a).
139 (iii) The attorney general must be a party, or representing a party, to the civil action
140 to file a notice under Subsection (2)(a).
- 141 (d) The time periods described in Utah Rules of Civil Procedure, Rule 42, apply to a
142 notice described in this Subsection (2).
- 143 (3)(a) Upon the filing of a notice under Subsection (2), a panel of three district court
144 judges shall hear and decide, by majority decision, the civil action in accordance with
145 this section.
- 146 (b) Each judge on a panel described in Subsection (3)(a) shall be:
147 (i) selected at random; and
148 (ii) from a different judicial district than the other judges on the panel.
- 149 (4)(a) The presiding officer of the Judicial Council shall select one judge assigned to a
150 panel to be the chief judge of the panel.
- 151 (b) Except as provided in Subsection (4)(c), the chief judge shall conduct all proceedings
152 in an action before a panel.
- 153 (c) A panel shall sit en banc for a trial, an order for an injunction or temporary
154 restraining order, or any motion that would dispose of the action or any claim or
155 defense in the action.
- 156 (d) A judge on a panel may concur or dissent from any decision for which the panel sits
157 en banc.
- 158 (5)(a) Title 78B, Chapter 3a, Venue for Civil Actions, does not apply to an action before
159 a panel.
- 160 (b) Any requirement in the Utah Code to file or bring an action in a specific district or
161 county does not apply to an action before a panel.
- 162 (6)(a) Before March 7, 2026, the Judicial Council shall:
163 (i) by rule, create a process by which a district court judge is assigned to a panel by
164 random selection, including any reassignment of a district court judge on a panel

- 165 due to disqualification, recusal, or a change of judge as a matter of right; and
166 (ii) establish and maintain a list of judges who the Judicial Council determines are
167 qualified to serve on a panel.
- 168 (b) The list established under Subsection (6)(a) shall consist of at least 50% of the
169 district court judges from each district.
- 170 (c) The Judicial Council shall post the list described in Subsection (6)(a) on the website
171 for the Utah state courts with information on the dates and number of times that a
172 judge has served on a panel.
- 173 (7) The Judicial Council shall hire a coordinator and staff to assist any panel convened
174 under this section.

175 Section 4. Section **78B-3a-102** is amended to read:

176 **78B-3a-102 . Applicability of this chapter -- Venue for the Business and**
177 **Chancery Court.**

- 178 (1) Except as otherwise provided by another provision of the Utah Code, a plaintiff shall
179 bring an action in accordance with the requirements of this chapter.
- 180 (2) The requirements of this chapter do not apply to:
- 181 (a) an action brought in the Business and Chancery Court[-] ; or
182 (b) an action before a panel of judges in the district court under Section 78A-5-102.7.

183 Section 5. **Effective Date.**

184 This bill takes effect:

- 185 (1) except as provided in Subsection (2), May 6, 2026; or
186 (2) if approved by two-thirds of all members elected to each house:
- 187 (a) upon approval by the governor;
188 (b) without the governor's signature, the day following the constitutional time limit of
189 Utah Constitution, Article VII, Section 8; or
190 (c) in the case of a veto, the date of veto override.