

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

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor:

2 **LONG TITLE**3 **General Description:**

4 This resolution amends the Utah Rules of Civil Procedure.

5 **Highlighted Provisions:**

6 This resolution:

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- 8 ▶ amends Utah Rules of Civil Procedure, Rule 1, to add a definition;
- 9 ▶ amends Utah Rules of Civil Procedure, Rule 42, to address the transfer of an action in the
- 10 district court when a three-judge panel is convened;
- 11 ▶ amends Utah Rules of Civil Procedure, Rule 63, to address the disqualification of a judge
- 12 on a three-judge panel in the district court; and
- 13 ▶ amends Utah Rules of Civil Procedure, Rule 63A, to address the change of judge as a
- 14 matter of right with regard to a three-judge panel in the district court.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 This resolution provides a special effective date.

19 This resolution provides revisor instructions.

20 **Utah Rules of Civil Procedure Affected:**21 **AMENDS:**22 **Rule 1**, Utah Rules of Civil Procedure23 **Rule 42**, Utah Rules of Civil Procedure24 **Rule 63**, Utah Rules of Civil Procedure25 **Rule 63A**, Utah Rules of Civil Procedure

26 *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each*
27 *of the two houses voting in favor thereof:*28 As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of
29 procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all

31 members of both houses of the Legislature:

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

33 **Rule 1 . General provisions; definition.**

34 **(1) Scope of rules.** These rules govern the procedure in the courts of the state of Utah in
35 all actions of a civil nature, whether cognizable at law or in equity, and in all statutory
36 proceedings, except as governed by other rules promulgated by this court or statutes enacted
37 by the Legislature, and except as stated in Rule 81. They must be liberally construed and
38 applied to achieve the just, speedy, and inexpensive determination of every action. These rules
39 govern all actions brought after they take effect and all further proceedings in actions then
40 pending. If, in the opinion of the court, applying a rule in an action pending when the rule
41 takes effect would not be feasible or would be unjust, the former procedure applies.

42 **(2) Definition.** As used in these rules, "district court panel" means a panel of three district
43 court judges that is convened to hear and decide an action.

44 Section 2. **Rule 42**, Utah Rules of Civil Procedure is amended to read:

45 **Rule 42 . Consolidation; separate trials; transfer of an action.**

46 **(a) Consolidation.** When actions involving a common question of law or fact or arising
47 from the same transaction or occurrence are pending before the court in one or more judicial
48 districts, the court may, on motion of any party or on the court's own initiative: order that the
49 actions are consolidated in whole or in part for any purpose, including for discovery, other
50 pretrial matters, or a joint hearing or trial; stay any or all of the proceedings in any action
51 subject to the order; transfer any or all further proceedings in the actions to a location in which
52 any of the actions is pending after consulting with the presiding judge of the receiving court;
53 and make other such orders concerning proceedings therein as may tend to avoid unnecessary
54 costs or delay.

55 (1) In determining whether to order consolidation and the appropriate location for the
56 consolidated proceedings, the court may consider, among other factors: the complexity of the
57 actions; the importance of any common question of fact or law to the determination of the
58 actions; the risk of duplicative or inconsistent rulings, orders, or judgments; the case and
59 records classification of each case as described in Rule 4-202.02 of the Utah Code of Judicial
60 Administration; the relative procedural postures of the actions; the risk that consolidation may
61 unreasonably delay the progress, increase the expense, or complicate the processing of any
62 action; prejudice to any party that far outweighs the overall benefits of consolidation; the
63 convenience of the parties, witnesses, and counsel; and the efficient utilization of judicial
64 resources and the facilities and personnel of the court.

(2) 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 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.

(3) 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.

(b) Consolidation or severance in whole or in part. For convenience or to avoid prejudice, the court may:

(1) order that the consolidated matters be tried together or that a separate trial be held on any one or more claims, crossclaims, counterclaims, third-party claims, or 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.

(c) Reassignment. If the consolidation of actions would be otherwise appropriate but is 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.

(d) [Venue Transfer] Transfer of an action.

(1) Transfer to proper venue.

____ (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.

[~~(2)~~] **(B)** The court must give substantial deference to a plaintiff's choice of a proper venue. On timely motion of any party, a court may: 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; stay any or all of the proceedings in the action; and make other such orders concerning proceedings therein to pursue the interests of justice and avoid unnecessary costs or delay. In determining whether to transfer venue and the appropriate venue for the transferred proceedings, the court may consider, among other factors, whether transfer will: increase the likelihood of a fair and impartial determination in the action; minimize expense or inconvenience to parties, witnesses, or the court; decrease delay; avoid hardship or injustice

99 otherwise caused by venue requirements; and advance the interests of justice.

100 [({3})] (C) The court may direct that specified parties pay the expenses, if any, of transfer.

101 **(2) Transfer to district court panel.**

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

105 (i) the day on which the action is commenced;

106 (ii) if the complaint in the action is amended, the day on which the amended
107 complaint is filed; or

108 (iii) the effective date of this resolution if the action is pending in the district court
109 on the effective date of this resolution.

110 (B) If the Attorney General, the Governor, or the Legislature files a notice to convene
111 a district court panel, the district court must:

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

114 (ii) transfer the action to the district court panel convened to hear and decide the
115 action.

116 (C) Upon the filing of a notice to convene a district court panel, the district court may
117 not sever any matter from the action or take any further action.

118 Section 3. **Rule 63**, Utah Rules of Civil Procedure is amended to read:

119 **Rule 63 . Disability or disqualification of a judge.**

120 **(a) Substitute judge; [Prior] prior testimony.** If the judge to whom an action has been
121 assigned is unable to perform his or her duties, then any other judge of that district or any
122 judge assigned pursuant to Judicial Council rule is authorized to perform those duties. The
123 judge to whom the case is reassigned may rehear the evidence or some part of it.

124 **(b) Motion to disqualify; affidavit or declaration.**

125 [({b})] (1) A party to an action or the party's attorney may file a motion to disqualify a
126 judge.

127 (2) The motion must be accompanied by a certificate that the motion is filed in good
128 faith and must be supported by an affidavit or unsworn declaration as described in Title 78B,
129 Chapter 18a, Uniform Unsworn Declarations Act stating facts sufficient to show bias,
130 prejudice or conflict of interest. The motion must also be accompanied by a request to submit
131 for decision.

132 [({b})] (3) The motion must be filed after commencement of the action, but not later

133 than 21 days after the last of the following:

134 [§(b)(2)](A) assignment of the action or hearing to the judge;

135 [§(b)(2)](B) appearance of the party or the party's attorney; or

136 [§(b)(2)](C) the date on which the moving party knew or should have known of the
137 grounds upon which the motion is based.

138 If the last event occurs fewer than 21 days before a hearing, the motion must be filed
139 as soon as practicable.

140 [§(b)(3)] (4) Signing the motion or affidavit or declaration constitutes a certificate under
141 Rule 11 and subjects the party or attorney to the procedures and sanctions of Rule 11.

142 [§(b)(4)] (5) No party may file more than one motion to disqualify in an action, unless the
143 second or subsequent motion is based on grounds that the party did not know of and could not
144 have known of at the time of the earlier motion.

145 [§(b)(5)] (6) If timeliness of the motion is determined under paragraph [§(b)(2)(C)] (b)(3)(C)
146 or paragraph [§(b)(4)] (b)(5), the affidavit or declaration supporting the motion must state when
147 and how the party came to know of the reason for disqualification.

148 **(c) Reviewing judge.**

149 [§(e)](1) The judge who is the subject of the motion must, without further hearing or a
150 response from another party, enter an order granting the motion or certifying the motion and
151 affidavit or declaration to a reviewing judge. The judge must take no further action in the case
152 until the motion is decided. If the judge grants the motion, the order will direct the presiding
153 judge of the court to assign another judge to the action or hearing. Assignment in justice court
154 cases will be in accordance with Utah Code of Judicial Administration Rule 9-109. The
155 presiding judge of the court, any judge of the district, or any judge of a court of like
156 jurisdiction may serve as the reviewing judge.

157 [§(e)](2) If the reviewing judge finds that the motion and affidavit or declaration are
158 timely filed, filed in good faith and legally sufficient, the reviewing judge shall assign another
159 judge to the action or hearing or request the presiding judge to do so. Assignment in justice
160 court cases will be in accordance with Utah Code of Judicial Administration Rule 9-109.

161 [§(e)](3) In determining issues of fact or of law, the reviewing judge may consider any
162 part of the record of the action and may request of the judge who is the subject of the motion
163 an affidavit or declaration responding to questions posed by the reviewing judge.

164 [§(e)](4) The reviewing judge may deny a motion not filed in a timely manner.

165 **(d) Disqualification of a judge on a district court panel.**

166 (1) A party may file a motion to disqualify a judge on a district court panel but may not

167 file a motion to disqualify a district court panel.

168 (2) The presiding officer of the Judicial Council is the reviewing judge for any motion to
169 disqualify a judge on a district court panel.

170 (3) If a motion to disqualify is granted for a judge on a district court panel:

171 (i) the action is not reassigned to a new district court panel; and

172 (ii) a new judge must be promptly assigned in accordance with the random selection
173 process in the Utah Code of Judicial Administration for a district court panel.

174 Section 4. **Rule 63A**, Utah Rules of Civil Procedure is amended to read:

175 **Rule 63A . Change of judge as a matter of right.**

176 (a) **Change of judge by one side of an action.**

177 [(a)](1) Right to change a judge by one side of an action.

178 [(a)(1)](A) In a civil action pending in a court in a county with seven or more district
179 court judges, each side is entitled to one change of judge as a matter of right under this
180 paragraph (a).

181 (B) When a district court panel is convened, each side is entitled to one change of
182 a judge on the district court panel as a matter of right under this paragraph (a).

183 [(a)(1)(B)] (C) Even if two or more parties on one side of a civil action have adverse
184 or hostile interests, the action, whether single or consolidated, must be treated as only having
185 two sides for purposes of a changing judge under this paragraph (a).

186 [(a)(1)(C)] (D) A side is not entitled to more than one change of judge under this
187 paragraph (a).

188 [(a)(1)(D)] (E) Regardless of when a party joins a civil action, a party is not entitled to
189 a change of judge as a matter of right under this paragraph (a) if the notice of a change of
190 judge is untimely under paragraph (a)(2).

191 [(a)](2) Notice of a change of judge.

192 [(a)(2)](A) A party seeking a change of judge under this paragraph (a) must file a
193 notice of a change of judge with the clerk of the court.

194 [(a)(2)](B) If the notice of a change of judge is timely under this paragraph (a)(2), the
195 notice must be granted.

196 [(a)(2)](C) In filing a notice of a change of judge under this paragraph (a), a party is
197 not required to state any reason for seeking a change of judge, but the party must attest in good
198 faith that the notice is not being filed:

199 [(a)(2)(C)](i) for the purpose to delay any action or proceeding; or

200 [(a)(2)(C)](ii) to change the judge on the grounds of race, gender, or religious

201 affiliation.

202 [(a)(2)](D) The notice must be filed:

203 [(a)(2)(D)](i) on the side of a plaintiff or petitioner, within seven days after the
204 day on which a judge is first assigned to the action or proceeding; or

205 [(a)(2)(D)](ii) on the side of a defendant or respondent, within seven days after the
206 day on which the defendant or respondent is served the complaint or petition, or at the time of
207 the first filing by the defendant or respondent with the court, whichever occurs first.

208 _____ (E) For a district court panel, the notice must be filed within seven days after the
209 day on which the parties receive notice of the judges assigned to the district court panel.

210 [(a)(2)(E)] (F) Failure to file a timely notice of a change of judge under this rule
211 precludes a change of judge under this paragraph (a).

212 [(a)](3) **Assignment of action.**

213 [(a)(3)](A) Upon the filing of a notice under this paragraph (a), the judge assigned to
214 the action must take no further action in the case.

215 [(a)(3)](B) [The] Except as provided in paragraph (a)(3)(D), the action must be
216 promptly reassigned to another judge within the county.

217 [(a)(3)](C) If the action is unable to be reassigned to another judge within the county
218 under paragraph (a)(3)(B), the action may be transferred to a court in another county in
219 accordance with Rule 42.

220 _____ (D) If a notice of a change of judge is filed for a district court panel:

221 _____ (i) the action is not reassigned to a new district court panel; and

222 _____ (ii) a new judge must be promptly assigned in accordance with the random
223 selection process described in the Utah Code of Judicial Administration for a district court
224 panel.

225 [(a)](4) **Exceptions.** A party, or a side, is not entitled to change a judge as a matter of
226 right under this paragraph (a):

227 [(a)(4)](A) in any proceeding regarding a petition for post-conviction relief under
228 Rule 65C;

229 [(a)(4)](B) on a petition to modify child custody, child support, or alimony, unless
230 the judge assigned to the action is not the same judge assigned to any of the previous actions
231 between the parties;

232 [(a)(4)](C) in an action before the juvenile court or the Business and Chancery Court;

233 [(a)(4)](D) in an action in which the judge is sitting as a water or tax judge;

234 [(a)(4)](E) in an action on remand from an appellate court; or

235 [§(a)(4)](F) if an action is unable to be transferred under paragraph (a)(3)(C) to
236 another county in accordance with Rule 42.

237 **(b) Right to change a judge by agreement of the parties.**

238 **[§(b)](1) Notice of a change of judge.**

239 [§(b)(1)](A) Except in actions with only one party, all parties joined in the action may,
240 by unanimous agreement and without cause, change the judge assigned to the action by filing a
241 notice of change of judge.

242 _____ (B) For an action before a district court panel, all parties joined in the action may,
243 by unanimous agreement and without cause, change a judge assigned to the panel by filing a
244 notice of change of judge.

245 _____ [§(b)(1)(B) The parties shall send a copy of the notice to the assigned judge and the
246 presiding judge.]

247 _____ (C) Except as provided in paragraph (b)(1)(D), the parties must file a copy of the
248 notice with the assigned judge and send a copy of the notice to the presiding judge.

249 _____ (D) If the action is before a district court panel, the parties must file a copy of the
250 notice with the district court panel and send a copy of the notice to the presiding officer of the
251 Judicial Council.

252 [§(b)(1)(C)] (E) The notice [shall] must be signed by all parties and [shall] must state:
253 (1) the name of the assigned judge; (2) the date on which the action was commenced; (3) that
254 all parties joined in the action have agreed to the change; (4) that no other persons are expected
255 to be named as parties; and (5) that a good faith effort has been made to serve all parties named
256 in the pleadings.

257 [§(b)(1)(D)] (F) The notice [shall-not] may not specify any reason for the change of
258 judge.

259 [§(b)(1)(E)] (G) Under no circumstances [shall] is more than one change of judge [be]
260 allowed under this paragraph (b) in an action.

261 **[§(b)](2) Time for filing a notice.**

262 [§(b)(2)](A) Unless extended by the court upon a showing of good cause, the notice
263 must be filed within 90 days after:

264 _____ (i) commencement of the action or prior to the notice of trial setting,
265 whichever occurs first[.] ; or

266 _____ (ii) if the action is before a district court panel, the parties receive notice of
267 the judges assigned to the district court panel.

268 [§(b)(2)](B) Failure to file a timely notice precludes any change of judge under this

269 paragraph (b).

270 **[{(b)}(3) Assignment of action.**

271 [{(b)}(3)](A) Upon the filing of a notice of change, the assigned judge [shall] must take
272 no further action in the case.

273 [{(b)}(3)](B) [The] Except as provided in paragraph (b)(3)(D), the presiding judge [shall]
274 must promptly determine whether the notice is proper and, if so, [shall] must reassign the
275 action.

276 [{(b)}(3)](C) If the presiding judge is also the assigned judge, the clerk [shall] must
277 promptly send the notice to the associate presiding judge, to another judge of the district, or to
278 any judge of a court of like jurisdiction, who [shall] must determine whether the notice is
279 proper and, if so, [shall] must reassign the action.

280 _____ **(D) If a notice is filed for a change of judge on a district court panel:**

281 _____ (i) the presiding officer of the Judicial Council must promptly determine
282 whether the notice is proper; and

283 _____ (ii) if the notice is proper, a new judge must be promptly assigned in
284 accordance with the random selection process described in the Utah Code of Judicial
285 Administration for a district court panel.

286 **[{(b)}(4) Nondisclosure to court.** No party shall communicate to the court, or cause
287 another to communicate to the court, the fact of any party's seeking consent to a notice of
288 change.

289 (c) **Rule 63 unaffected.** Nothing in this rule precludes the right of any party to seek
290 disqualification of a judge under Rule 63.

291 Section 5. **Effective Date.**

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

294 Section 6. **Revisor instructions.**

295 The Legislature intends that the Office of Legislative Research and General Counsel, in
296 enrolling this resolution, delete the phrase "the effective date of this resolution" where the
297 phrase appears in Utah Rules of Civil Procedure, Rule 42(d)(2)(A) of this resolution and
298 replace the phrase with the actual date on which the resolution takes effect.