

Scott D. Sandall proposes the following substitute bill:

1 **Joint Resolution Amending Court Rules Regarding Medical Malpractice**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor:

2 **LONG TITLE**

3 **General Description:**

4 This resolution amends court rules to address medical malpractice actions.

5 **Highlighted Provisions:**

6 This resolution:

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- 8 ▶ amends Rule 42 of the Utah Rules of Civil Procedure to address separate trials in a
- 9 medical malpractice action; and
- 10 ▶ makes technical and conforming changes.

11 **Money Appropriated in this Bill:**

12 None

13 **Other Special Clauses:**

14 This resolution provides a special effective date.

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

16 **AMENDS:**

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

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

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

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

24 **Rule 42 . Consolidation; separate trials; venue transfer.**

25 **(a) Consolidation.** When actions involving a common question of law or fact or arising
26 from the same transaction or occurrence are pending before the court in one or more judicial
27 districts, the court may, on motion of any party or on the court's own initiative: order that the
28 actions are consolidated in whole or in part for any purpose, including for discovery, other

30 pretrial matters, or a joint hearing or trial; stay any or all of the proceedings in any action
31 subject to the order; transfer any or all further proceedings in the actions to a location in which
32 any of the actions is pending after consulting with the presiding judge of the receiving court;
33 and make other such orders concerning proceedings therein as may tend to avoid unnecessary
34 costs or delay.

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

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

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

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

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

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

61 (c) **Separate trials in a medical malpractice action.** For a malpractice action against a health
62 care provider, the factfinder may not prejudice a defendant by knowing or considering
63 evidence of the claimant's alleged losses for past medical expenses or the past cost of medical

64 equipment before:
65 (1) liability for the alleged losses has been established; and
66 (2) any claim or award of noneconomic damages, if any, for the alleged losses has been
67 fully adjudicated or entered.

68 **[{e}] (d) Reassignment.** If the consolidation of actions would be otherwise appropriate but is
69 not administratively possible, the judge assigned to the first action may order the court clerk to
70 reassign the other actions to the judge assigned to the first action. Such actions will be treated
71 for all purposes as if they were consolidated except that the actions will retain their separate
72 case numbers, which must be included on all filings.

73 **[{d}] (e) Venue Transfer.**

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

76 (2) The court must give substantial deference to a plaintiff's choice of a proper venue.
77 On timely motion of any party, a court may: transfer venue of any action, in whole or in part,
78 to any other venue for any purpose, including for discovery, other pretrial matters, or a joint
79 hearing or trial; stay any or all of the proceedings in the action; and make other such orders
80 concerning proceedings therein to pursue the interests of justice and avoid unnecessary costs
81 or delay. In determining whether to transfer venue and the appropriate venue for the
82 transferred proceedings, the court may consider, among other factors, whether transfer will:
83 increase the likelihood of a fair and impartial determination in the action; minimize expense or
84 inconvenience to parties, witnesses, or the court; decrease delay; avoid hardship or injustice
85 otherwise caused by venue requirements; and advance the interests of justice.

86 (3) The court may direct that specified parties pay the expenses, if any, of transfer.

87 **Section 2. Effective Date.**

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