

UTAH STATE COURTS



Presentation to the Utah State Legislature's Task Force on Justice Court Reform

July 19, 2023

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Timeline

1989

- Justice Courts Created

1996

- Circuit Courts Dissolved
- Justice Court Jurisdiction Expanded

2007

- Nehring Commission

2016

- *Simler v. Chilel*, 379 P.3d 1995 (Utah 2016)

2018

- Supreme Court Advisory Committee Chaired by Judge Appleby

2019

- Task Force Formed

2021

- Task Force Report Presented to the Supreme Court and the Judicial Council

Justices of the Peace: 1850 to 1989

- Justices of the Peace existed in England since the mid-1300's and the institution was brought to the colonies.
- In 1850 Congress passed an Organic Act creating the Utah Territory. This included the creation of a court system, one component of which was the Justice of the Peace.
- Justices of the Peace were local officials, often with no formal legal training, that heard violations of local ordinances and small claims.
- The Utah Constitution was drafted in a convention beginning in March of 1895. It included provisions for Justices of the Peace.

Circuit Courts: 1978 to 1996

- Circuit Courts were created in 1978 to handle misdemeanors, criminal cases through preliminary hearings and small claims. In response to several factors, including a desire to consolidate court levels, and operational difficulties internal to the courts, the Circuit Courts were dissolved in 1996.
- Justice Courts were assigned the misdemeanor and small claims caseload of the Circuit Courts.



Concerns with Justice Courts

- Lack of a meaningful appellate review (de novo appeals).
- Poorly developed body of case law surrounding misdemeanor criminal issues.
- Qualifications of judges: non-lawyers.
- Financial conflicts of interest with cities and counties operating justice courts.
- Lack of uniform procedure.
- Provision of indigent defense services.
- Unavailability of mental health and substance abuse services.

Nehring Commission (2007)

Recommendations Enacted	Recommendations Not Enacted
Judicial selection process	Judges to be state employees
Salary protections	Judges salaries set at 90%
As a compromise, a salary range of 50-90%	Elimination of part-time judicial positions (60 FTE judges needed statewide)
	All judges to have at least a Bachelor's degree

Justice Court Reforms: 2007 to 2018

- 2011: 78A-7-103 - Requires that all Justice Court proceedings be audio recorded.
- 2016: HB 160 - required judges in first and second class counties to have law degrees. Required the Judicial Council to approve the creation of new justice courts. Created a mechanism for localities with large courts to eliminate a judge under certain conditions.
- 2018: Rule 9-109, Utah Code of Judicial Administration - Created the position of (District) Presiding Judge at the Justice Court level.

Simler v. Chilel, 2016 UT 23, 379 P.3d 1195.

In this case the Utah Supreme Court held:

“We conclude that the Utah Constitution guarantees the right to a jury trial in small claims cases in a trial de novo in district court.”

With the assistance of an ad hoc committee, the Utah Supreme Court promulgated rules and forms necessary to implement the court’s decision.

Supreme Court Advisory Committee (2018)

“We are interested in exploring the possibility of amendments to our rules, to controlling legislation, and (if necessary) to the Utah Constitution to pave the way for elimination of the appeal by de novo trial. Instead, we propose a more traditional appeal, but on an expedited path (restricted word limits, perhaps a decision without oral argument, and short opinions possibly lacking precedential authority)”



The Judiciary's Task Force (2019-2021)

- Formed in December 2019
- The Task Force was chaired by Judge Paul C. Farr and included membership from a broad range of stakeholders
- Met from May 2020 – August 2021
 - Reviewed reports, case law and other research material
 - Heard presentations from stakeholders and other experts
- Report Submitted to the Judicial Council in August 2021
<https://legacy.utcourts.gov/utc/jc-reform/wp-content/uploads/sites/47/2021/09/Reform-Proposal-Final.pdf>
- Primary Goal: Elimination of *de novo* appeals without a Constitutional Amendment

The Final Report to the Judicial Council

- Identified 5 guiding principles:
 - Qualified judge
 - On-the-record appeal
 - Right to counsel
 - Article VIII courts
 - Substance abuse and mental health
- Made 26 specific recommendations in 5 categories



Judicial Council Recommendations: Options for Implementation

1. Do Nothing
2. Fully Implement the Task Force's Recommendations
3. Eliminate Justice Courts
4. Make Justice Courts "Of-Record"
5. A Gradual, Phased Approach With A Vision
 - Four Phases

Phase 1

- #12 – Enact statute clarifying that all courts are part of the judiciary (Accomplished by HB 210)
- #13 – Set fixed judicial salaries (would have local financial impacts) (Addressed, but not completed, by HB 210. 50% to 70%)
- #14 – Eliminate accounting model #2 (In process)
- #15 – Eliminate geographic restrictions for justice court judge applicants (Accomplished by HB 210)
- #16 – Require justice court judges to have law degrees (grandfathering current judges) (Accomplished by HB 210)

Phase 2

Create a legal framework through which future structural changes could more easily be implemented.

- Create the Magistrate Judge position. (Appointed judge, full-time, bar membership, with duties set forth in statute including presiding over B & C Misdemeanors and Small Claims, magistrate functions, other duties as assigned by District Court. Salary set at 90%.)
- Concurrent jurisdiction of B & C Misdemeanors and Small Claims between Justice Courts and District Courts, with primary in justice court, and jurisdiction transferring upon certain events (dissolution of a justice court, legislative transfer of certain case types, order of a District Court judge, etc. . . where a Magistrate Judge / Division has been implemented).
- Funding of a Magistrate Judge(s) in District(s) with greatest current judicial need.
- #26 – *Creation of a simplified process for infractions (i.e., Hawaii's traffic system, referee hearings, ODR, etc.)*

Phase 3

Transfer of certain small claims cases (similar to HB 196 from 2022, providing for the transfer of Domestic Violence cases).

- Transferred case would be heard by a Magistrate, on-the-record (pursuant to which procedural rules, existing or new?)
- Could apply to certain case types (personal injury, insurance, expert witnesses) and at either a party's request or automatically if certain conditions exist
- Coordinate with Rule 4A, Utah Rules of Small Claims Procedure which provides for removal for the right to a jury

Phase 4

Recommendations to work towards in the future:

- #1a – Magistrate duties assigned to magistrate judges
- #1b – Class A misdemeanors heard by Magistrate judges (pursuant to assignment of the presiding judge)
- #1c – Preliminary hearings heard by Magistrate judges (pursuant to assignment of the presiding judge)
- #18 and 19 – Differentiate between private and commercial small claims cases
- #20 – Bring 3rd Party debt collection cases under the Small Claims umbrella, both to be heard by Magistrates
- #21 – Filing fee for commercial small claims and debt collection cases to be used to provide LLP representation
- #22 – Expand ODR to all small claims and debt collection cases
- #24 – Discontinue the use of pro tem judges for small claims and create ODR facilitator system
- #25 – By rule, make remote hearings available to parties, volunteers, attorneys, etc.
- ~~#26 – Creation of a simplified process for infractions (i.e., Hawaii's traffic system, referee hearings, ODR, etc.)~~
- #27 – Eviction cases to be heard by Magistrates

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Questions/Discussion