

## HB 392 Constitutional Court Amendments

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Sponsor: Rep. Matt MacPherson

<https://le.utah.gov/~2026/bills/static/HB0392.html>

### Key Messages

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1. Population growth and increasingly complex cases are putting pressure on our judicial system.
2. Establishing a Constitutional Court will help our judges become more specialized, improving efficiency and leading to more consistent and faster decisions throughout the judicial system.

### Talking Points

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- Population growth, technological innovation, and increasingly complex cases are straining the capacity of our judicial system.
- To keep up with this growing workload, there's a separate proposal to add more judges and other resources – the largest single increase in decades.
- Besides adding resources, we should also find ways to use existing resources more efficiently.
- One critical way to improve productivity is through specialization.
- We've already been leaning into more specialization within our Judiciary for a while. We have separate juvenile courts, drug courts, and veterans courts.
- Just a few years ago, we created a new Business and Chancery Court to handle complex business and commercial litigation.
- This bill proposes to follow that same logic to create a Constitutional Court composed of 3 judges.

- The court would have statewide jurisdiction to hear cases challenging the constitutionality of state laws.
- A single judge could rule on procedural motions, but substantive decisions like injunctions, trial, and opinions must be decided en banc as a panel.
- Judges would be selected through the normal process – vetted by a nominating commission, selected by the Governor, and confirmed by the Senate.
- There would be a preference given to sitting or former judges.
- Because there will not be enough constitutional cases to fill a full docket, the judges would also oversee some district court workload.
- The Constitutional Court would exist at the district court level, so any appeals would still be heard by the Court of Appeals or Utah Supreme Court.
- Centralizing constitutional claims in a specialized court will help these judges become subject matter experts in the Utah and U.S. Constitutions. This will lead to more consistent and faster decisions, improving productivity throughout the judicial system.
- North Carolina and Tennessee both convene 3 judge panels to hear these types of constitutional challenges.
- Wisconsin also uses 3 judge panels for redistricting lawsuits.
- Finally, the U.S. federal courts have put 3 district court judges on panels to hear redistricting and other specific types of cases since 1910.
- Centralizing constitutional claims will help these judges become subject matter experts in the Utah and U.S. Constitutions.
- That specialization will lead to more consistent and faster decisions, increasing productivity through the judicial system.

## **Q&A**

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*Aren't you just trying to cherry pick the judges that will hear important cases?*

- No. This is very similar to other specialty courts, including the Business and Chancery Court, that lead to improved subject matter expertise, consistency, and efficiency.
- Appointment will follow the exact same process as for all judges – vetted by a nominating commission, appointed by the Governor, and confirmed by the Senate.
- Appeals would still be heard by the Court of Appeals and Utah Supreme Court, which remains the ultimate arbiter of constitutional claims.

*Do any other states have a specialized constitutional court?*

- Yes. North Carolina and Tennessee both convene 3 judge panels to hear these types of constitutional challenges.
- Wisconsin also uses 3 judge panels for redistricting lawsuits.
- Finally, the U.S. federal courts have put 3 district court judges on panels to hear redistricting and other specific types of cases since 1910.

*How will judges be appointed?*

- They'll go through the usual process through a nominating commission, appointed by the Governor, and confirmed by the Senate.

*Why require a rural/urban split?*

- This helps ensure important cases that affect the entire state are not heard solely by judges living along the Wasatch Front.

*Why give a preference to existing judges?*

- Similar to the Business and Chancery Court, the idea is to use existing judicial resources more efficiently through specialization. So rather than add new judges, the bill contemplates centralizing certain cases in this new court, while leaving the judges available to continue taking on some routine district court cases.

*How will Constitutional Court judges stand for retention?*

- Judges simultaneously serving on the Constitutional Court and a District or Court of Appeals would stand for retention separately for each appointment on the normal schedule – 3 years after appointment, then every 6 years

## **Constituent Response**

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Thank you for reaching out about the proposal to establish a Constitutional Court.

Utah's rapid population growth and increasingly complex legal cases are placing real pressure on our judicial system. This proposal is about improving efficiency and consistency by allowing judges to specialize in constitutional law—similar to how Utah already uses specialty courts like juvenile courts, drug courts, and the Business and Chancery Court.

Under the proposal, a three-judge panel with statewide jurisdiction would hear challenges to the constitutionality of state laws. Judges would be selected through the same transparent process used for all judges—vetted by a nominating commission, appointed by the Governor, and confirmed by the Senate—and appeals would still go to the Utah Supreme Court.

By centralizing constitutional cases in a specialized court, judges can develop deeper expertise, leading to faster, more consistent decisions and a more efficient judicial system overall. Other states and the federal courts already use similar three-judge panels for these types of cases, and this proposal follows that proven model while preserving checks and balances.

I appreciate your engagement on this important issue and your interest in strengthening Utah's judicial system.