

Title 78A. Judiciary and Judicial Administration

**Chapter 1
Judiciary**

**Part 1
Judiciary**

78A-1-101 Courts of justice enumerated -- Courts of record enumerated.

- (1) The following are the courts of justice of this state:
 - (a) the Supreme Court;
 - (b) the Court of Appeals;
 - (c) the district courts;
 - (d) the juvenile courts; and
 - (e) the justice courts.
- (2) All courts are courts of record, except the justice courts, which are courts not of record.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-1-102 Trial courts of record -- Divisions.

The district and juvenile courts shall be divided into eight geographical divisions:

- (1) First District - Box Elder, Cache, and Rich Counties;
- (2) Second District - Weber, Davis, and Morgan Counties;
- (3) Third District - Salt Lake, Summit, and Tooele Counties;
- (4) Fourth District - Utah, Wasatch, Juab, and Millard Counties;
- (5) Fifth District - Beaver, Iron, and Washington Counties;
- (6) Sixth District - Garfield, Kane, Piute, Sanpete, Sevier, and Wayne Counties;
- (7) Seventh District - Carbon, Emery, Grand, and San Juan Counties; and
- (8) Eighth District - Daggett, Duchesne, and Uintah Counties.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-1-103 Number of district judges.

- (1) The number of district court judges shall be:
 - (a) four district judges in the First District;
 - (b) 14 district judges in the Second District;
 - (c) 31 district judges in the Third District;
 - (d) 13 district judges in the Fourth District;
 - (e) except as provided in Subsection (2), six district judges in the Fifth District;
 - (f) two district judges in the Sixth District;
 - (g) three district judges in the Seventh District; and
 - (h) three district judges in the Eighth District.
- (2) If the number of juvenile court judges in the Third Juvenile District, as described in Section 78A-1-104, is decreased to nine, the number of district court judges in the Fifth District is increased to seven.

Amended by Chapter 17, 2020 General Session

78A-1-104 Number of juvenile judges and jurisdictions.

- (1) The number of juvenile court judges shall be:
 - (a) two juvenile judges in the First Juvenile District;
 - (b) six juvenile judges in the Second Juvenile District;
 - (c) except as provided in Subsection (2), 10 juvenile judges in the Third Juvenile District;
 - (d) five juvenile judges in the Fourth Juvenile District;
 - (e) three juvenile judges in the Fifth Juvenile District;
 - (f) one juvenile judge in the Sixth Juvenile District;
 - (g) two juvenile judges in the Seventh Juvenile District; and
 - (h) two juvenile judges in the Eighth Juvenile District.
- (2)
 - (a) If there is a vacancy for a juvenile court judge in the Third Juvenile District, the number of juvenile judges in the Third Juvenile District is decreased to nine.
 - (b) If a vacancy in the Third Juvenile District occurs and the number of juvenile judges in the Third Juvenile District is decreased to nine, the governor shall fill the vacancy created in Subsection 78A-1-103(2) for the Fifth District in accordance with Section 78A-10-104.

Amended by Chapter 17, 2020 General Session

78A-1-105 Merger of district court and circuit court.

- (1) Effective July 1, 1996, the circuit court shall be merged into the district court. The district court shall have jurisdiction as provided by law for the district court and shall have jurisdiction over all matters filed in the court formerly denominated the circuit court.
- (2) The district court shall continue the judicial offices, judges, staff, cases, authority, duties, and all other attributes of the court formerly denominated the circuit court.
- (3) Judges of the court formerly denominated the circuit court shall:
 - (a) on July 1, 1996, be judges of the district court; and
 - (b) next stand for retention election at the first general election held more than three years after their appointment or at the general election held in the sixth year after their last retention election, as applicable.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-1-106 Transition clause -- Recodification of Title 78.

For purposes of a matter pending in any court beginning February 7, 2008 through August 31, 2008, citation to an appropriate section in the previous Title 78, Judicial Code, shall be considered a proper citation to the corresponding section in Title 78A, Judiciary and Judicial Administration, or Title 78B, Judicial Code.

Enacted by Chapter 123, 2008 General Session

78A-1-107 Savings clause -- Recodification of Title 78.

The provisions of Title 78A, Judiciary and Judicial Administration, and Title 78B, Judicial Code, are considered a continuation of the previous Title 78, Judicial Code. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any court on February 7, 2008, shall result from the enactment of Title 78A, Judiciary and Judicial Administration, and Title 78B, Judicial Code. With respect to the organization of the courts, the offices of all officers and employees, shall be

construed as continuations of the previous Title 78, Judicial Code. The tenure of justices, judges, justices of the peace, officers, and employees of the courts in office on February 7, 2008, is not affected by its enactment.

Enacted by Chapter 123, 2008 General Session

Chapter 2 Judicial Administration

Part 1 Judicial Administration

78A-2-101 Title.

This chapter is known and cited as the "Judicial Administration Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-102 Purpose.

The purpose of this chapter is to create an administrative system for all courts of this state, subject to central direction by the Judicial Council, to enable these courts to provide uniformity and coordination in the administration of justice.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-103 Definitions.

As used in this chapter:

- (1) "Conference" means the annual statewide judicial conference established by Section 78A-2-111.
- (2) "Council" means the Judicial Council established by Article VIII, Sec. 12, Utah Constitution.
- (3) "Courts" mean all courts of this state, including all courts of record and not of record.

Amended by Chapter 25, 2018 General Session

78A-2-104 Judicial Council -- Creation -- Members -- Terms and election -- Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.

- (1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution, shall be composed of:
 - (a) the chief justice of the Supreme Court;
 - (b) one member elected by the justices of the Supreme Court;
 - (c) one member elected by the judges of the Court of Appeals;
 - (d) six members elected by the judges of the district courts;
 - (e) three members elected by the judges of the juvenile courts;
 - (f) three members elected by the justice court judges; and

- (g) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Bar in good standing at the time of election by the Board of Commissioners.
- (2) The Judicial Council shall have a seal.
- (3)
 - (a) The chief justice of the Supreme Court shall act as presiding officer of the council and chief administrative officer for the courts. The chief justice shall vote only in the case of a tie.
 - (b) All members of the council shall serve for three-year terms.
 - (i) If a council member should die, resign, retire, or otherwise fail to complete a term of office, the appropriate constituent group shall elect a member to complete the term of office.
 - (ii) In courts having more than one member, the members shall be elected to staggered terms.
 - (iii) The person elected by the Board of Commissioners may complete a three-year term of office on the Judicial Council even though the person ceases to be a member or ex officio member of the Board of Commissioners. The person shall be an active member of the Bar in good standing for the entire term of the Judicial Council.
 - (c) Elections shall be held under rules made by the Judicial Council.
- (4) The council is responsible for the development of uniform administrative policy for the courts throughout the state. The presiding officer of the Judicial Council is responsible for the implementation of the policies developed by the council and for the general management of the courts, with the aid of the state court administrator. The council has authority and responsibility to:
 - (a) establish and assure compliance with policies for the operation of the courts, including uniform rules and forms; and
 - (b) publish and submit to the governor, the chief justice of the Supreme Court, and the Legislature an annual report of the operations of the courts, which shall include financial and statistical data and may include suggestions and recommendations for legislation.
- (5) The council shall establish standards for the operation of the courts of the state including, but not limited to, facilities, court security, support services, and staff levels for judicial and support personnel.
- (6) The council shall by rule establish the time and manner for destroying court records, including computer records, and shall establish retention periods for these records.
- (7)
 - (a) Consistent with the requirements of judicial office and security policies, the council shall establish procedures to govern the assignment of state vehicles to public officers of the judicial branch.
 - (b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and may be assigned for unlimited use, within the state only.
- (8)
 - (a) The council shall advise judicial officers and employees concerning ethical issues and shall establish procedures for issuing informal and formal advisory opinions on these issues.
 - (b) Compliance with an informal opinion is evidence of good faith compliance with the Code of Judicial Conduct.
 - (c) A formal opinion constitutes a binding interpretation of the Code of Judicial Conduct.
- (9)
 - (a) The council shall establish written procedures authorizing the presiding officer of the council to appoint judges of courts of record by special or general assignment to serve temporarily in another level of court in a specific court or generally within that level. The appointment shall be for a specific period and shall be reported to the council.

- (b) These procedures shall be developed in accordance with Subsection 78A-2-107(10) regarding temporary appointment of judges.
- (10) The Judicial Council may by rule designate municipalities in addition to those designated by statute as a location of a trial court of record. There shall be at least one court clerk's office open during regular court hours in each county. Any trial court of record may hold court in any municipality designated as a location of a court of record.
- (11) The Judicial Council shall by rule determine whether the administration of a court shall be the obligation of the Administrative Office of the Courts or whether the Administrative Office of the Courts should contract with local government for court support services.
- (12) The Judicial Council may by rule direct that a district court location be administered from another court location within the county.
- (13)
 - (a) The Judicial Council shall:
 - (i) establish the Office of Guardian Ad Litem, in accordance with Title 78A, Chapter 2, Part 8, Guardian Ad Litem; and
 - (ii) establish and supervise a Guardian Ad Litem Oversight Committee.
 - (b) The Guardian Ad Litem Oversight Committee described in Subsection (13)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection (13)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and federal law, regulation, policy, and court rules.
- (14) The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Human Services, the part of the state case registry that contains records of each support order established or modified in the state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

Amended by Chapter 262, 2021 General Session

78A-2-105 State court administrator -- Appointment -- Qualifications -- Salary.

The Supreme Court shall appoint a chief administrative officer of the council who shall have the title of the state court administrator and shall serve at the pleasure of the council, the Supreme Court, or both. The state court administrator shall be selected on the basis of professional ability and experience in the field of public administration and shall possess an understanding of court procedures as well as of the nature and significance of other court services. The state court administrator shall devote the state court administrator's full time and attention to the duties of the state court administrator's office, and shall receive a salary equal to that of a district court judge.

Amended by Chapter 25, 2018 General Session

78A-2-106 Presiding officer -- Compensation -- Duties.

- (1) The chief justice of the Supreme Court shall serve as the presiding officer of the Judicial Council. The presiding officer shall receive as additional compensation the sum of \$1,000 per annum or fraction thereof for the period served.
- (2) The presiding officer of the Judicial Council shall supervise the courts to ensure uniform adherence to law and to the rules and forms adopted by the council and to promote the proper and efficient functioning of the courts. The presiding officer of the council may issue orders as necessary to assure compliance with uniform administrative practices.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-107 Court administrator -- Powers, duties, and responsibilities.

Under the general supervision of the presiding officer of the Judicial Council, and within the policies established by the council, the state court administrator shall:

- (1) organize and administer all of the nonjudicial activities of the courts;
- (2) assign, supervise, and direct the work of the nonjudicial officers of the courts;
- (3) implement the standards, policies, and rules established by the council;
- (4) formulate and administer a system of personnel administration, including in-service training programs;
- (5) prepare and administer the state judicial budget, fiscal, accounting, and procurement activities for the operation of the courts of record, and assist justices' courts in their budgetary, fiscal, and accounting procedures;
- (6) conduct studies of the business of the courts, including the preparation of recommendations and reports relating to them;
- (7) develop uniform procedures for the management of court business, including the management of court calendars;
- (8) maintain liaison with the governmental and other public and private groups having an interest in the administration of the courts;
- (9) establish uniform policy concerning vacations and sick leave for judges and nonjudicial officers of the courts;
- (10) establish uniform hours for court sessions throughout the state and may, with the consent of the presiding officer of the Judicial Council, call and appoint justices or judges of courts of record to serve temporarily as Court of Appeals, district court, or juvenile court judges and set reasonable compensation for their services;
- (11) when necessary for administrative reasons, change the county for trial of any case if no party to the litigation files timely objections to this change;
- (12)
 - (a) organize and administer a program of continuing education for judges and support staff, including training for justice court judges; and
 - (b) ensure that any training or continuing education described in Subsection (12)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements;
- (13) provide for an annual meeting for each level of the courts of record, and the annual judicial conference; and
- (14) perform other duties as assigned by the presiding officer of the council.

Amended by Chapter 25, 2018 General Session

Amended by Chapter 200, 2018 General Session

78A-2-108 Assistants for state court administrator -- Appointment of trial court executives.

- (1) The state court administrator, with the approval of the presiding officer of the council, is responsible for the establishment of positions and salaries of assistants as necessary to enable the state court administrator to perform the powers and duties vested in the state court administrator by this chapter, including the positions of appellate court administrator, district court administrator, juvenile court administrator, and justices' court administrator, whose appointments shall be made by the state court administrator with the concurrence of the respective boards as established by the council.
- (2) The district court administrator, with the concurrence of the presiding judge of a district or the district court judge in single judge districts, may appoint in each district a trial court

executive. The trial court executive may appoint, subject to budget limitations, necessary support personnel including clerks, research clerks, secretaries, and other persons required to carry out the work of the court. The trial court executive shall supervise the work of all nonjudicial court staff and serve as administrative officer of the district.

- (3) Administrators and assistants appointed under this section shall be known collectively as the Administrative Office of the Courts.

Amended by Chapter 25, 2018 General Session

78A-2-109 Courts to provide information and statistical data to state court administrator.

The judges, clerks of the courts, and all other officers, state and local, shall comply with all requests made by the state court administrator or the state court administrator's assistants for information and statistical data bearing on the state of the dockets of the courts and such other information as may reflect the business transacted by them and the expenditure of public money for the maintenance and operation of the judicial system.

Amended by Chapter 25, 2018 General Session

78A-2-109.5 Court demographics reporting.

- (1) As used in this section, "commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
- (2) The Administrative Office of the Courts shall compile and provide the following information to the commission for each criminal case filed with the court:
- (a) case number;
 - (b) the defendant's:
 - (i) full name;
 - (ii) offense tracking number; and
 - (iii) date of birth;
 - (c) charges filed;
 - (d) initial appearance date;
 - (e) bail amount set by the court, if any;
 - (f) whether the defendant was represented by a public defender, private counsel, or pro se; and
 - (g) final disposition of the charges.
- (3) The information shall be submitted on the 15th day of July and January of each year for the previous six-month period ending the last day of June and December of each year in the form and manner selected by the commission. If the last day of the month is a Saturday, Sunday, or state holiday, the information shall be submitted on the next working day.

Enacted by Chapter 200, 2020 General Session

78A-2-110 Data bases for judicial boards.

- (1) As used in this section, "judicial board" means any judicial branch board, commission, council, committee, working group, task force, study group, advisory group, or other body with a defined limited membership that is created to operate for more than six months by the constitution, by statute, by judicial order, by any justice or judge, by the Judicial Council, or by the state court administrator, a district court administrator, trial court executive, or by any clerk or administrator in the judicial branch of state government.

- (2) The Judicial Council shall designate a person from its staff to maintain a computerized data base containing information about all judicial boards.
- (3) The person designated to maintain the data base shall ensure that the data base contains:
 - (a) the name of the judicial board;
 - (b) the statutory or constitutional authority for the creation of the judicial board;
 - (c) the court or other judicial entity under whose jurisdiction the judicial board operates or with which the judicial board is affiliated, if any;
 - (d) the name, address, gender, telephone number, and county of each person currently serving on the judicial board, along with a notation of all vacant or unfilled positions;
 - (e) the title of the position held by the person who appointed each member of the judicial board;
 - (f) the length of the term to which each member of the judicial board was appointed and the month and year that each judicial board member's term expires;
 - (g) the organization, interest group, profession, local government entity, or geographic area that the member of the judicial board represents, if any;
 - (h) whether or not the judicial board allocates state or federal funds and the amount of those funds allocated during the last fiscal year;
 - (i) whether the judicial board is a policy board or an advisory board;
 - (j) whether or not the judicial board has or exercises rulemaking authority; and
 - (k) any compensation and expense reimbursement that members of the executive board are authorized to receive.
- (4) The person designated to maintain the data base shall:
 - (a) make the information contained in the data base available to the public upon request; and
 - (b) cooperate with other entities of state government to publish the data or useful summaries of the data.
- (5)
 - (a) The person designated to maintain the data bases shall prepare, publish, and distribute an annual report by April 1 of each year that includes, as of March 1 of that year:
 - (i) the total number of judicial boards;
 - (ii) the name of each of those judicial boards and the court, council, administrator, executive, or clerk under whose jurisdiction the executive board operates or with which the judicial board is affiliated, if any;
 - (iii) for each court, council, administrator, executive, or clerk, the total number of judicial boards under the jurisdiction of or affiliated with that court, council, administrator, executive, or clerk;
 - (iv) the total number of members for each of those judicial boards;
 - (v) whether each board is a policymaking board or an advisory board and the total number of policy boards and the total number of advisory boards; and
 - (vi) the compensation, if any, paid to the members of each of those judicial boards.
 - (b) The person designated to maintain the data bases shall distribute copies of the report to:
 - (i) the chief justice of the Utah Supreme Court;
 - (ii) the state court administrator;
 - (iii) the governor;
 - (iv) the president of the Utah Senate;
 - (v) the speaker of the Utah House;
 - (vi) the Office of Legislative Research and General Counsel; and
 - (vii) any other persons who request a copy of the annual report.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-111 Annual judicial conference.

- (1) There is established an annual judicial conference for all courts of this state, to facilitate the exchange of ideas among all courts and judges, and to study and improve the administration of the courts.
- (2) All elections provided in this act shall be conducted during the annual judicial conference.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-112 Grants to nonprofit legal assistance organization.

Subject to legislative appropriation, the state court administrator shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, solicit requests for proposals and award grants to nonprofit legal assistance providers to provide legal assistance throughout the state to:

- (1) low to moderate income victims of domestic violence; and
- (2) low to moderate income individuals in family law matters.

Amended by Chapter 347, 2012 General Session

78A-2-113 Judicial hiring freeze authorized.

- (1) As used in this section, "General Fund budget deficit" means a situation where General Fund appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.
- (2) During a General Fund budget deficit, the governor, president of the Senate, speaker of the House, and chief justice of the Supreme Court, may, by unanimous vote, implement a judicial hiring freeze for judicial vacancies for:
 - (a) a juvenile court district with three or more juvenile court judges;
 - (b) a district court district with three or more district court judges;
 - (c) all appellate court judges; or
 - (d) any combination of Subsections (2)(a) through (c).
- (3) In implementing a judicial hiring freeze, the governor, president of the Senate, speaker of the House, and chief justice of the Supreme Court shall:
 - (a) establish the length of that hiring freeze; and
 - (b) ensure that the hiring freeze lasts at least 90 days, but not longer than the last day of the annual general session of the Legislature.

Enacted by Chapter 175, 2010 General Session

Part 2
General Provisions Applicable to Courts and Judges

78A-2-201 Powers of every court.

Every court has authority to:

- (1) preserve and enforce order in its immediate presence;
- (2) enforce order in the proceedings before it, or before a person authorized to conduct a judicial investigation under its authority;

- (3) provide for the orderly conduct of proceedings before it or its officers;
- (4) compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in a pending action or proceeding;
- (5) control in furtherance of justice the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it in every matter;
- (6) compel the attendance of persons to testify in a pending action or proceeding, as provided by law;
- (7) administer oaths in a pending action or proceeding, and in all other cases where necessary in the exercise of its authority and duties;
- (8) amend and control its process and orders to conform to law and justice;
- (9) devise and make new process and forms of proceedings, consistent with law, necessary to carry into effect its authority and jurisdiction; and
- (10) enforce rules of the Supreme Court and Judicial Council.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-202 Courts of justice -- Authority.

- (1) All courts of justice have the authority necessary to exercise their jurisdiction.
- (2) If a procedure for an action is not established, a process may be adopted that conforms with the apparent intent of the statute or rule of procedure.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-203 Rules -- Right to make -- Limitation -- Security.

- (1) Every court of record may make rules, not inconsistent with law, for its own government and the government of its officers; but such rules must neither impose any tax or charge upon any legal proceeding nor give any allowance to any officer for service.
- (2)
 - (a) The judicial council may provide, through the rules of judicial administration, for security in or about a courthouse or courtroom, or establish a secure area as prescribed in Section 76-8-311.1.
 - (b)
 - (i) If the council establishes a secure area under Subsection (2)(a), it shall provide a secure firearms storage area on site so that persons with lawfully carried firearms may store them while they are in the secure area.
 - (ii) The entity operating the facility with the secure area shall be responsible for the firearms while they are stored in the storage area referred to in Subsection (2)(b)(i).
 - (iii) The entity may not charge a fee to individuals for storage of their firearms under Subsection (2)(b)(i).
- (3)
 - (a) Unless authorized by the rules of judicial administration, any person who knowingly or intentionally possesses a firearm, ammunition, or dangerous weapon within a secure area established by the judicial council under this section is guilty of a third degree felony.
 - (b) Any person is guilty of violating Section 76-10-306 who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device, as defined by Section 76-10-306, within a secure area, established by the Judicial Council under this section.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-204 Judicial Council to approve court seals.

The Judicial Council shall approve a seal for all courts of justice.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-205 When seal is affixed.

The seal of the court need not be affixed to any document of the court, except to:

- (1) a writ;
- (2) a certificate of the probate of a will, or of appointment of an executor, administrator, or guardian; or
- (3) the authentication of:
 - (a) a copy of a record or document on file with the court; or
 - (b) the signature of an officer of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-206 English language for proceedings.

Judicial proceedings shall be conducted in the English language.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-207 Domestic relations cases -- Party designation.

Parties in domestic relations cases, including divorce, annulment, property division, child custody, support, parent-time, adoption, and paternity, shall be designated as petitioner and respondent.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-208 Sittings of courts -- To be public -- Notice to public of recording -- Right to exclude in certain cases.

- (1) The sittings of every court of justice are public, except as provided in Subsections (3) and (4).
- (2) The Judicial Council shall require that notice be given to the public that the proceedings are being recorded when an electronic or digital recording system is being used during court proceedings.
- (3) The court may, in its discretion, during the examination of a witness exclude any and all other witnesses in the proceedings.
- (4) In an action of divorce, criminal conversation, seduction, abortion, rape, or assault with intent to commit rape, the court may, in its discretion, exclude all persons who do not have a direct interest in the proceedings, except jurors, witnesses and officers of the court.

Amended by Chapter 126, 2016 General Session

78A-2-209 Sheriff to supply court rooms when the county legislative body neglects.

If suitable rooms for holding the district court and for chambers of the judge are not provided in the place appointed for holding court in any county, together with attendants, furniture, lights, and stationery sufficient for the transaction of business, the court or the judge may direct the sheriff to provide rooms, attendants, furniture, fuel, lights, and stationery. All expenses incurred, certified

by the judge to be correct, are a charge against the county and shall be paid out of the county's general fund.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-210 Change of place of trial because of calamity.

- (1) The presiding judge may order court proceedings to be held at another location within the jurisdiction if the presiding judge determines it is necessary because of:
 - (a) war;
 - (b) insurrection;
 - (c) pestilence;
 - (d) public calamity or natural disaster; or
 - (e) destruction of or danger to the building in which court is held.
- (2) Any order to move court proceedings shall be reduced to writing and filed with the clerk of the court for publication.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-211 Court days.

Courts of justice are open and judicial business may be transacted on any day, except as provided in Section 78A-2-212.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-212 Days on which court closed -- Exceptions.

Judicial business on Sunday, on any day on which a regular general election is held, or on any legal holiday, is limited to the following purposes:

- (1) to give, upon their request, instructions to a jury when deliberating on the jury's verdict;
- (2) to receive a verdict or discharge a jury;
- (3) for the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature; and
- (4) judicial business not involving a trial or hearing unless the judge finds it necessary for the fair administration of justice.

Amended by Chapter 30, 2018 General Session

78A-2-213 Proceedings unaffected by vacancy in office of judge.

No proceeding in any court of justice is affected by a vacancy in the office of all or any of the judges, or by the failure of a term of a judge.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-214 Collection of accounts receivable.

- (1) As used in this section:
 - (a) "Accounts receivable" means any amount due the state from an entity for which payment has not been received by the state agency that is servicing the debt.

- (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third party claims, sale of goods, sale of services, claims, and damages.
- (2) If a defendant is sentenced before July 1, 2021, and the Department of Corrections, or the Office of State Debt Collection, is not responsible for collecting an accounts receivable for the defendant, the district court shall collect the accounts receivable for the defendant.
- (3)
 - (a) In the juvenile court, money collected by the court from past-due accounts receivable may be used to offset system, administrative, legal, and other costs of collection.
 - (b) The juvenile court shall allocate money collected above the cost of collection on a pro rata basis to the various revenue types that generated the accounts receivable.
- (4) The interest charge established by the Office of State Debt Collection under Subsection 63A-3-502(4)(g)(iii) may not be assessed on an account receivable subject to the postjudgment interest rate established by Section 15-1-4.

Amended by Chapter 260, 2021 General Session

78A-2-215 Abbreviations and numerals.

Common abbreviations may be used, and numbers may be expressed by customary figures or numerals in court documents.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-216 Fees for writ of garnishment -- Single or continuing.

- (1) Any creditor who serves or causes to be served a writ of garnishment upon the garnishee shall pay to the garnishee:
 - (a) \$10 for a single garnishment; and
 - (b) \$25 for a continuing garnishment.
- (2) The creditor shall pay the fee directly to the garnishee.
- (3) If a plaintiff attempts to garnish the property of a person other than the defendant by serving a garnishment on a garnishee, that person may recover from the plaintiff an amount not to exceed \$1,000 if the person demonstrates to the court that the plaintiff failed to exercise reasonable diligence in determining that the person and defendant were the same individual.
- (4) The following factors may be taken into consideration by the court in determining whether the plaintiff exercised reasonable diligence in determining whether the person garnished and the defendant were the same individual:
 - (a) similarities between the person and the actual judgment debtor, including:
 - (i) the spelling of each person's name;
 - (ii) addresses;
 - (iii) physical descriptions;
 - (iv) identifying information, including Social Security number or driver license number; and
 - (v) family status;
 - (b) whether previous contact was made to determine whether the person was the judgment debtor;
 - (c) how the determination of who the judgment debtor was, was made; and
 - (d) what information the plaintiff had access to or was provided with regarding the actual judgment debtor from all available sources.

- (5) An employer who receives a written request for verification of employment, which includes a copy of the judgment and judgment information statement, shall provide verification within 10 days. The response shall indicate whether or not the defendant identified in the documentation is a current employee.
- (6) A plaintiff is not liable for a violation of Subsection (3) regarding a wage garnishment if the plaintiff transmitted a written request for verification of employment, including a copy of the judgment and judgment information statement, to an employer and the employer did not respond.

Renumbered and Amended by Chapter 3, 2008 General Session
Amended by Chapter 149, 2008 General Session

78A-2-217 Electronic writing.

- (1) Except as restricted by the Constitution of the United States or of this state, any writing required or permitted by this code to be filed with or prepared by a court may be filed or prepared in an electronic medium and by electronic transmission subject to the ability of the recipient to accept and process the electronic writing.
- (2) Any writing required to be signed that is filed with or prepared by a court in an electronic medium or by electronic transmission shall be signed by electronic signature in accordance with Title 46, Chapter 4, Uniform Electronic Transactions Act.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-218 Powers of every judicial officer -- Contempt.

Every judicial officer has power:

- (1) to preserve and enforce order in his immediate presence, and in proceedings before him, when he is engaged in the performance of official duty;
- (2) to compel obedience to his lawful orders as provided by law;
- (3) to compel the attendance of persons to testify in a proceeding before him in the cases and manner provided by law;
- (4) to administer oaths to persons in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and duties; and
- (5) punish for contempt as provided by law to enforce compliance with Subsections (1) through (4).

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-219 Powers of judge contradistinguished from court.

A judge may exercise out of court all the powers expressly conferred upon a judge as contradistinguished from the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-220 Authority of magistrate.

- (1) Except as otherwise provided by law, a magistrate as defined in Section 77-1-3 shall have the authority to:
 - (a) commit a person to incarceration prior to trial;
 - (b) set or deny bail under Section 77-20-205 and release upon the payment of monetary bail, as defined in Section 77-20-102, and satisfaction of any other conditions of release;

- (c) issue to any place in the state summonses and warrants of search and arrest and authorize administrative traffic checkpoints under Section 77-23-104;
 - (d) conduct an initial appearance;
 - (e) conduct arraignments;
 - (f) conduct a preliminary examination to determine probable cause;
 - (g) appoint attorneys and order recoupment of attorney fees;
 - (h) order the preparation of presentence investigations and reports;
 - (i) issue temporary orders as provided by rule of the Judicial Council; and
 - (j) perform any other act or function authorized by statute.
- (2) A judge of the justice court may exercise the authority of a magistrate specified in Subsection (1) with the following limitations:
- (a) a judge of the justice court may conduct an initial appearance, preliminary examination, or arraignment as provided by rule of the Judicial Council; and
 - (b) a judge of the justice court may not perform any act or function in a capital felony case.

Amended by Chapter 4, 2021 Special Session 2

78A-2-221 Justices and judges -- Limitations during terms.

A justice or judge of any court of record may not, during his term of office:

- (1) practice law or have a partner engaged in the practice of law;
- (2) hold office in or make any contribution to any political party or organization engaged in political activity; or
- (3) use, in his efforts to obtain or retain judicial office, any political party designation, reference, or description.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-222 Disqualification for interest or relation to parties.

- (1) Except by consent of all parties, a justice, judge, or justice court judge may not sit or act in any action or proceeding:
 - (a) to which he is a party, or in which he is interested;
 - (b) when he is related to either party by consanguinity or affinity within the third degree, computed according to the rules of the common law; or
 - (c) when he has been attorney or counsel for either party in the action or proceeding.
- (2) The provisions of this section do not apply to the arrangement of the calendar or the regulation of the order of business, nor to the power of transferring the action or proceeding to some other court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-223 Decisions to be rendered within two months -- Procedures for decisions not rendered.

- (1) A trial court judge shall decide all matters submitted for final determination within two months of submission, unless circumstances causing the delay are beyond the judge's personal control.
- (2) The Judicial Council shall establish reporting procedures for all matters not decided within two months of final submission.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-224 Bases for certain decisions limited.

- (1) Except as provided in Subsection (2), no court may rule on the custody, placement, including foster placement, or other disposition alternative for a minor, or the termination of parental rights, based on the fact that a parent or guardian of the minor lawfully does one or more of the following:
 - (a) legally possesses or uses a firearm or other weapon;
 - (b) espouses particular religious beliefs; or
 - (c) schools the minor or other minors outside the public education system or is otherwise sympathetic to schooling a minor outside the public education system.
- (2) Subsection (1) does not prohibit a ruling based on the compatibility of a minor with a particular custody, placement, or other disposition alternative as determined by the presence of any of the factors in Subsections (1)(a) through (1)(c).

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-225 Judge of court of record -- Service in other division or court.

A judge of a court of record may serve temporarily as a judge in another geographic division or in another court of record, in accordance with the Utah Constitution and the rules of the Judicial Council.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-226 Repeated application for orders forbidden -- Disobedience -- Contempt.

- (1) If an application for an order, made to a judge of a court in which the action or proceeding is pending, is refused in whole or in part or is granted conditionally, a subsequent application for the same order may not be made to any other judge, except of a higher court.
- (2) This section does not apply to motions refused for any informality in the papers or proceedings necessary to obtain the order, or to motions refused with liberty to renew them.
- (3) A notice of appeal for a trial de novo is not a subsequent application for the same order.
- (4) A violation of Subsection (1) may be punished by contempt and any subsequent order may be revoked by the issuing judge or vacated by a judge of the court in which the action or proceeding is pending.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-229 Documents provided to pro se litigants.

- (1) Documents classified as private, protected, or sealed by court rule and are provided to a pro se litigant in the course of an action or in accordance with Subsection 63G-2-202(7) may not be distributed, released, or displayed to any other person except the court, the other party and their counsel, or any other person who may be authorized by the court to inspect the documents.
- (2) Pro se litigants shall be advised by the court that private, protected, or sealed documents received by the party that the party would not have received but for the litigation and pro se representation are confidential and may not be distributed outside the parties or the court without prior authorization by the court. A court's failure to give this notice may not be used as a defense to prosecution for a violation of the disclosure rule.
- (3) Violation of this section is:

- (a) punishable by contempt if distribution or release occurs before a final determination is made by the court and the court still has jurisdiction over the parties; or
- (b) a class B misdemeanor if the litigation has been concluded and the court no longer has jurisdiction over the parties.

Enacted by Chapter 247, 2010 General Session

78A-2-230 References to court pleadings and other papers.

Any reference in this code to a petition, complaint, or other court record shall be considered to include any cover sheet or accompanying document required by statute or court rule to be filed with the petition, complaint, or other record.

Enacted by Chapter 34, 2010 General Session

78A-2-231 Consideration of lawful use or possession of medical cannabis.

(1) As used in this section:

- (a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- (b) "Directions of use" means the same as that term is defined in Section 26-61a-102.
- (c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.
- (d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.
- (e) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.
- (f) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.
- (g) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

- (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;
- (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or
- (c)

- (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

- (ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) Notwithstanding Sections 77-18-105 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

- (a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or
- (b) Subsection 58-37-3.7(2) or (3).

Amended by Chapter 260, 2021 General Session

Amended by Chapter 337, 2021 General Session

Part 3 Court Fees and Waivers

78A-2-301 Civil fees of the courts of record -- Courts complex design.

- (1)
- (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$375.
 - (b) The fee for filing a complaint or petition is:
 - (i) \$90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;
 - (ii) \$200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;
 - (iii) \$375 if the claim for damages or amount in interpleader is \$10,000 or more;
 - (iv) \$325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;
 - (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5;
 - (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112; and
 - (vii) \$35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.
 - (c) The fee for filing a small claims affidavit is:
 - (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;
 - (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
 - (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.
 - (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:
 - (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;
 - (ii) \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;
 - (iii) \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and
 - (iv) \$130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.
 - (e) The fee for filing a small claims counter affidavit is:
 - (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;
 - (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

- (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.
- (f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.
- (g) The fee for filing a petition is:
 - (i) \$240 for trial de novo of an adjudication of the justice court or of the small claims department; and
 - (ii) \$80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.
- (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$240.
- (i) The fee for filing a petition for expungement is \$150.
- (j)
 - (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.
 - (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited into the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.
 - (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.
 - (iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.
 - (v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.
- (k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.
- (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.
- (m) The fee for filing probate or child custody documents from another state is \$35.
- (n)
 - (i) The fee for filing an abstract or transcript of judgment, order, or decree of the State Tax Commission is \$30.
 - (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the State Tax Commission, is \$50.
- (o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.
- (p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.

- (q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is \$100.
 - (r) The fee for filing any accounting required by law is:
 - (i) \$15 for an estate valued at \$50,000 or less;
 - (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;
 - (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;
 - (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
 - (v) \$175 for an estate valued at more than \$168,000.
 - (s) The fee for filing a demand for a civil jury is \$250.
 - (t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is \$35.
 - (u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.
 - (v) The fee for a petition to open a sealed record is \$35.
 - (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.
 - (x)
 - (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.
 - (ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7, Emancipation, is \$50.
 - (y) The fee for a certificate issued under Section 26-2-25 is \$8.
 - (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.
 - (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.
 - (bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of expenditures.
 - (cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of the public to conduct a limited amount of searches on the Xchange database without having to pay a monthly subscription fee.
 - (dd) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.
 - (ee) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.
 - (ff) The filing fees under this section may not be charged to the state, the state's agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.
- (2)
- (a)
 - (i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.
 - (ii)

- (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited into the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.
- (B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited into the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.
- (C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.
- (iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).
- (iv) The Division of Facilities Construction and Management shall:
 - (A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and
 - (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).
- (b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.
- (c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.
- (d)
 - (i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.
 - (ii) After June 30, 1998, the state court administrator or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.
- (3)
 - (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.
 - (b) The Legislature may appropriate money from the restricted account to the state court administrator for the following purposes only:
 - (i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and
 - (ii) to cover operations and maintenance costs on the court complex.

Amended by Chapter 157, 2021 General Session
Amended by Chapter 262, 2021 General Session

78A-2-301.5 Civil fees for justice courts.

- (1) The fee for filing a small claims affidavit is:
 - (a) \$60 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is \$2,000 or less;
 - (b) \$100 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
 - (c) \$185 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is \$7,500 or more.
- (2) The fee for filing a small claims counter affidavit is:
 - (a) \$50 if the claim for relief exclusive of justice court costs, interest, and attorney fees is \$2,000 or less;
 - (b) \$70 if the claim for relief exclusive of justice court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
 - (c) \$120 if the claim for relief exclusive of justice court costs, interest, and attorney fees is \$7,500 or more.
- (3) The fee for filing a petition for expungement is \$135.
- (4) The fee for a petition to open a sealed record is \$35.
- (5) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.
- (6) The fee for filing a notice of appeal to a court of record is \$10. This fee covers all services of the justice court on appeal but does not satisfy the trial de novo filing fee in the court of record.
- (7) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.
- (8) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.
- (9) The fee schedule adopted by the Judicial Council for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act, shall apply.
- (10) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.
- (11) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (11) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

Amended by Chapter 245, 2013 General Session

78A-2-302 Impecunious litigants -- Affidavit.

- (1) For purposes of Sections 78A-2-302 through 78A-2-309:
 - (a) "Convicted" means a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental illness, no contest, and conviction of any crime or offense.
 - (b) "Prisoner" means a person who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.
- (2) As provided in this chapter, any person may institute, prosecute, defend, and appeal any cause in any court in this state without prepayment of fees and costs or security, by taking and subscribing, before any officer authorized to administer an oath, an affidavit of impecuniosity demonstrating financial inability to pay fees and costs or give security.

- (3) The affidavit shall contain complete information on the party's:
 - (a) identity and residence;
 - (b) amount of income, including government financial support, alimony, child support;
 - (c) assets owned, including real and personal property;
 - (d) business interests;
 - (e) accounts receivable;
 - (f) securities, checking and savings account balances;
 - (g) debts; and
 - (h) monthly expenses.
- (4) If the party is a prisoner, he shall also disclose the amount of money held in his prisoner trust account at the time the affidavit is executed as provided in Section 78A-2-305.
- (5) In addition to the financial disclosures, the affidavit shall state the following:

I, A B, do solemnly swear or affirm that due to my poverty I am unable to bear the expenses of the action or legal proceedings which I am about to commence or the appeal which I am about to take, and that I believe I am entitled to the relief sought by the action, legal proceedings, or appeal.

Amended by Chapter 366, 2011 General Session

78A-2-303 False affidavit -- Penalty.

- (1) A person may assert by affidavit that an affidavit of impecuniosity, action, or appeal is:
 - (a) false;
 - (b) frivolous or without merit; or
 - (c) malicious.
- (2) Upon receipt of an affidavit in accordance with Subsection (1), the court may notify the affiant of the challenge and set a date, not less than five days from receipt of the notice, requiring the affiant to appear and show cause why the affiant should not be required to:
 - (a) post a bond for the costs of the action or appeal; or
 - (b) pay the legal fees for the action or appeal.
- (3) The court may dismiss the action or appeal if:
 - (a) the affiant does not appear;
 - (b) the affiant appears and the court determines the affidavit is false, frivolous, without merit, or malicious; or
 - (c) the court orders the affiant to post a bond or pay the legal fees and the affiant fails to do so.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-304 Effect of filing affidavit -- Nonprisoner.

- (1) Upon the filing of the oath or affirmation with any Utah court by a nonprisoner, the court shall review the affidavit and make an independent determination based on the information provided whether court costs and fees should be waived entirely or in part. Notwithstanding the party's statement of inability to pay court costs, the court shall require a partial or full filing fee where the financial information provided demonstrates an ability to pay a fee.
- (2) In instances where fees or costs are completely waived, the court shall immediately file any complaint or papers on appeal and do what is necessary or proper as promptly as if the litigant had fully paid all the regular fees. The constable or sheriff shall immediately serve any summonses, writs, process and subpoenas, and papers necessary or proper in the prosecution

or defense of the cause, for the impecunious person as if all the necessary fees and costs had been fully paid.

- (3) However, in cases where an impecunious affidavit is filed, the judge shall question the person who filed the affidavit at the time of hearing the cause as to his ability to pay. If the judge opines that the person is reasonably able to pay the costs, the judge shall direct the judgment or decree not be entered in favor of that person until the costs are paid. The order may be cancelled later upon petition if the facts warrant cancellation.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-305 Effect of filing affidavit -- Procedure for review and collection.

- (1)
- (a) Upon receipt of the oath or affirmation filed with any Utah court by a prisoner, the court shall immediately request the institution or facility where the prisoner is incarcerated to provide an account statement detailing all financial activities in the prisoner's trust account for the previous six months or since the time of incarceration, whichever is shorter.
- (b) The incarcerating facility shall:
- (i) prepare and produce to the court the prisoner's six-month trust account statement, current trust account balance, and aggregate disposable income; and
- (ii) calculate aggregate disposable income by totaling all deposits made in the prisoner's trust account during the six-month period and subtracting all funds automatically deducted or otherwise garnished from the account during the same period.
- (2) The court shall:
- (a) review both the affidavit of impecuniosity and the financial account statement; and
- (b) based upon the review, independently determine whether or not the prisoner is financially capable of paying all the regular fees and costs associated with filing the action.
- (3) When the court concludes that the prisoner is unable to pay full fees and costs, the court shall assess an initial partial filing fee equal to 50% of the prisoner's current trust account balance or 10% of the prisoner's six-month aggregate disposable income, whichever is greater.
- (4)
- (a) After payment of the initial partial filing fee, the court shall require the prisoner to make monthly payments of 20% of the preceding month's aggregate disposable income until the regular filing fee associated with the civil action is paid in full.
- (b) The agency having custody of the prisoner shall:
- (i) garnish the prisoner's account each month; and
- (ii) once the collected fees exceed \$10, forward payments to the clerk of the court until the filing fees are paid.
- (c) Nothing in this section may be construed to prevent the agency having custody of the prisoner from withdrawing funds from the prisoner's account to pay court-ordered restitution.
- (5) Collection of the filing fees continues despite dismissal of the action.
- (6) The filing fee collected may not exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action.
- (7) If the prisoner is filing an initial divorce action or an action to obtain custody of the prisoner's children, the following procedures shall apply for review and collection of fees and costs:
- (a) Upon filing an oath or affirmation with any Utah court by a prisoner, the court shall review the affidavit and make an independent determination based on the information provided whether court costs and fees should be paid in full or be waived in whole or in part. The court shall

require a full or partial filing fee when the prisoner's financial information demonstrates an ability to pay the applicable court fees or costs.

(b)

- (i) If a prisoner's court fees or costs are completely waived, and if the prisoner files an appeal, the court shall immediately file any complaint or papers on appeal and complete all necessary action as promptly as if the litigant had paid all the fees and costs in full.
- (ii) If a prisoner is impecunious, the constable and sheriff shall immediately serve any summonses, writs, process and subpoenas, and papers necessary in the prosecution or defense of the cause as if all the necessary fees and costs had been paid in full.

(c)

- (i) If a prisoner files an affidavit of impecuniosity, the judge shall question the prisoner at the time of the hearing on the merits of the case as to the prisoner's ability to pay.
- (ii) If the judge determines that the prisoner is reasonably able to pay court fees and costs, the final order or decree shall be entered, however the prisoner may not seek enforcement or modification of the decree or order until the prisoner has paid the fees or costs in full.
- (iii) A judge may waive the restrictions placed on the prisoner in Subsection (7)(c)(ii) upon a showing of good cause.

Amended by Chapter 226, 2010 General Session

78A-2-306 Notice of filing fee -- Consequence of nonpayment.

- (1) When an affidavit of impecuniosity has been filed and the court assesses an initial filing fee, the court shall immediately notify the litigant in writing of:
 - (a) the initial filing fee required as a prerequisite to proceeding with the action;
 - (b) the procedure available to challenge the initial filing fee assessment as provided in Section 78A-2-307; and
 - (c) the inmate's ongoing obligation to make monthly payments until the entire filing fee is paid.
- (2) The court may not authorize service of process or otherwise proceed with the action, except as provided in Section 78A-2-307, until the initial filing fee has been completely paid to the clerk of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-307 Filing fee challenge -- Court powers.

- (1) Within 10 days of receiving court notice requiring an initial filing fee under Section 78A-2-306, the litigant may contest the fee assessment by filing a memorandum and supporting documentation with the court demonstrating inability to pay the fee.
- (2) The court shall review the memorandum and supporting documents challenging the fee assessment for facial validity.
- (3) The court may reduce the initial filing fee, authorize service of process, or otherwise proceed with the action without prepayment of costs and fees if the memorandum shows the litigant:
 - (a) has lost his source of income;
 - (b) has unaccounted nondiscretionary expenses limiting his ability to pay;
 - (c) will suffer immediate irreparable harm if the action is unnecessarily delayed; or
 - (d) will otherwise lose the cause of action by unnecessary delays associated with securing funds necessary to satisfy the assessed filing fee.
- (4) Nothing in this section shall be construed to relieve the litigant from the ongoing obligation of monthly payments until the filing fee is paid in full.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-308 Failure to serve papers -- Penalty.

Any justice court judge, clerk, or officer refusing to file or serve the papers is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-309 Liability for fees if successful in litigation.

Nothing in this part shall prevent a justice court judge, clerk, constable, or sheriff from collecting his or her regular fees for all services rendered for the impecunious person, in the event the person is successful in litigation. All fees and costs shall be regularly taxed and included in any judgment recovered by the person. The fees and costs shall be paid to a justice court judge, clerk, constable, or sheriff. If the person fails in the action or appeal, then the costs of the action or appeal shall be adjudged against the person.

Amended by Chapter 146, 2009 General Session

**Part 4
Court Reporter Act**

78A-2-401 Title.

This part is known as the "Court Reporter Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-402 Definitions.

As used in this part:

- (1) "Certified court reporter" means a state certified court reporter as described in Title 58, Chapter 74, State Certification of Court Reporters Act.
- (2) "Official court transcriber" means a person certified and authorized in accordance with rules of the Judicial Council to transcribe into written form an audio or video recording of court proceedings.

Amended by Chapter 376, 2020 General Session

78A-2-403 Appointment of court reporters -- Eligibility.

A person may not be appointed to the position of court reporter nor act in the capacity of a court reporter in any court of record of this state, or before any referee, master, board, or commission of this state unless the person is a state certified court reporter in accordance with the provisions of Title 58, Chapter 74, State Certification of Court Reporters Act.

Amended by Chapter 379, 2019 General Session

78A-2-404 Contract restrictions.

- (1)
 - (a) Any contract for court reporting services, not related to a particular case or reporting incident, is prohibited between a court reporter or any other person with whom a court reporter has a principal and agency relationship and any attorney, party to an action, or party having a financial interest in an action.
 - (b) Negotiating or bidding reasonable fees, equal to all the parties, on a case-by-case basis is not prohibited.
- (2) A certified court reporter is an officer of the court, authorized to administer oaths, whose impartiality shall remain beyond question.
- (3) This section does not apply to the courts or the administrative tribunals of this state.
- (4) Violation of this section shall be considered unprofessional conduct as provided in Section 58-74-102 and 58-74-502, and shall be grounds for revocation of state certification only.

Amended by Chapter 376, 2020 General Session

78A-2-405 Record of court proceedings.

The Judicial Council shall by rule provide for the means of maintaining the record of proceedings in the courts of record by official court reporters or by electronic recording devices.

Amended by Chapter 34, 2010 General Session

78A-2-408 Transcripts and copies -- Fees.

- (1) The Judicial Council shall by rule provide for a standard page format for transcripts of court hearings.
- (2)
 - (a) Except as provided in Subsections (2)(c) and (e), the fee for a transcript of a court session, or any part of a court session, may not be more than \$4.50 per page, which includes the initial preparation of the transcript and one certified copy.
 - (b) The preparer shall:
 - (i) deposit the original text file and printed transcript with the clerk of the court; and
 - (ii) provide the person requesting the transcript with the certified copy.
 - (c) The cost of additional copies of the transcript shall be as provided in Subsection 78A-2-301(1).
 - (d) The transcript for an appeal shall be prepared within the time period permitted by the Utah Rules of Appellate Procedure.
 - (e) The fee for a transcript prepared:
 - (i) within three business days of the request, shall be 1-1/2 times the base rate; and
 - (ii) within one business day of the request, shall be double the base rate.
- (3)
 - (a) When a transcript is ordered by the court, the fees shall be paid by the parties to the action in equal proportion or as ordered by the court.
 - (b) The fee for a transcript in a criminal case in which the defendant is found to be an indigent individual, as defined in Section 78B-22-102, shall be paid in accordance with Subsection 78B-22-203(3).
- (4)
 - (a) The fee for the preparation of a transcript of a court hearing by an official court transcriber and the fee for the preparation of the transcript by a certified court reporter of a hearing before any court, referee, master, board, or commission of this state shall be:

- (i) in accordance with Subsection (2); and
- (ii) payable to the person preparing the transcript.
- (b) Payment for a transcript under this section is the responsibility of the party requesting the transcript.

Amended by Chapter 224, 2021 General Session

78A-2-409 Certified transcripts prima facie correct.

A transcript of a certified court reporter's notes, written in longhand or typewritten, certified by the court reporter as being a correct transcript of evidence and proceedings, is prima facie a correct statement of the evidence and proceedings.

Amended by Chapter 34, 2010 General Session

78A-2-410 Transcripts taxed as costs.

A transcript may not be taxed as costs, unless the preparation of the transcript is ordered either by a party or by the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-411 Crimes.

Any violation of the provisions of this chapter, except Section 78A-2-404, is a class B misdemeanor.

Amended by Chapter 148, 2018 General Session

**Part 5
Online Court Assistance Act**

78A-2-501 Definitions -- Online Court Assistance Program -- Purpose of program -- Online Court Assistance Account -- User's fee.

- (1) As used in this part:
 - (a) "Account" means the Online Court Assistance Account created in this section.
 - (b) "Program" means the Online Court Assistance Program created in this section.
- (2) There is created the "Online Court Assistance Program" administered by the Administrative Office of the Courts to provide the public with information about civil procedures and to assist the public in preparing and filing civil pleadings and other papers in:
 - (a) uncontested divorces;
 - (b) enforcement of orders in the divorce decree;
 - (c) landlord and tenant actions;
 - (d) guardianship actions; and
 - (e) other types of proceedings approved by the board.
- (3) The purpose of the program shall be to:
 - (a) minimize the costs of civil litigation;
 - (b) improve access to the courts; and
 - (c) provide for informed use of the courts and the law by pro se litigants.

- (4)
 - (a) An additional \$20 shall be added to the filing fee established by Sections 78A-2-301 and 78A-2-301.5 if a person files a complaint, petition, answer, or response prepared through the program. There shall be no fee for using the program or for papers filed subsequent to the initial pleading.
 - (b) There is created within the General Fund a restricted account known as the Online Court Assistance Account. The fees collected under this Subsection (4) shall be deposited in the restricted account and appropriated by the Legislature to the Administrative Office of the Courts to develop, operate, and maintain the program and to support the use of the program through education of the public.
- (5) The Administrative Office of the Courts shall provide on the front page of the program website a listing of all forms and proceedings available to all pro se litigants within the program.

Amended by Chapter 246, 2019 General Session

Part 6 Court Security

78A-2-601 Security surcharge -- Application and exemptions -- Deposit in restricted account.

- (1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of \$53 shall be assessed in all courts of record on all criminal convictions and juvenile delinquency judgments.
- (2) The security surcharge may not be imposed upon:
 - (a) nonmoving traffic violations;
 - (b) community service; and
 - (c) penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 80-6-304.
- (3) The security surcharge shall be collected after the surcharge under Section 51-9-401, but before any fine, and deposited with the state treasurer. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.
- (4) The state treasurer shall deposit the collected security surcharge in the restricted account, Court Security Account, as provided in Section 78A-2-602.

Amended by Chapter 262, 2021 General Session

78A-2-602 Court Security Account -- Creation -- Funding -- Uses.

- (1) There is created a restricted account in the General Fund known as the "Court Security Account."
- (2) The state treasurer shall deposit in the Court Security Account money from:
 - (a) the surcharge established in Section 78A-2-601;
 - (b) the portions of filing fees allocated under Subsections 78A-2-301(1)(j)(iv) and (v); and
 - (c) the portions of a surcharge allocated under Subsections 78A-7-122(3) and (4)(b)(ii).
- (3) The Court Security Account consists of money:
 - (a) deposited by the state treasurer under Subsection (2); and
 - (b) appropriated by the Legislature.

- (4) Subject to appropriation, the Administrative Office of the Courts shall use the allocation to contract for court security at all district and juvenile courts throughout the state.

Amended by Chapter 167, 2018 General Session

Part 7

District Court Guardian Ad Litem Act

78A-2-701 Title.

This part is known as the "District Court Guardian ad Litem Act."

Enacted by Chapter 267, 2014 General Session

78A-2-702 Definitions.

As used in this part:

- (1) "Attorney guardian ad litem" means an attorney employed by the office.
- (2) "Director" means the director of the office.
- (3) "Guardian ad litem" means an attorney guardian ad litem or a private attorney guardian ad litem.
- (4) "Office" means the Office of Guardian ad Litem, created in Section 78A-2-802.
- (5) "Private attorney guardian ad litem" means an attorney designated by the office in accordance with Section 78A-2-705 who is not an employee of the office.

Amended by Chapter 262, 2021 General Session

78A-2-703 Appointment of attorney guardian ad litem in district court matters.

- (1) A district court may appoint an attorney guardian ad litem to represent the best interests of a minor in the following district court matters:
 - (a) protective order proceedings; and
 - (b) district court actions when:
 - (i) child abuse, child sexual abuse, or neglect is alleged in a formal complaint, petition, or counterclaim;
 - (ii) the child abuse, child sexual abuse, or neglect described in Subsection (1)(b)(i) has been reported to Child Protective Services;
 - (iii) the court makes a finding that the adult parties to the case are indigent individuals, as defined in Section 78B-22-102; and
 - (iv) the district court determines that there are no private attorney guardians ad litem who are reasonably available to be appointed in the district court action.
- (2)
 - (a) A court may not appoint an attorney guardian ad litem in a criminal case.
 - (b) Subsection (2)(a) does not prohibit the appointment of an attorney guardian ad litem in a case where a court is determining whether to adjudicate a minor for committing an act that would be a crime if committed by an adult.
 - (c) Subsection (2)(a) does not prohibit an attorney guardian ad litem from entering an appearance, filing motions, or taking other action in a criminal case on behalf of a minor, if:

- (i) the attorney guardian ad litem is appointed to represent the minor in a case that is not a criminal case; and
 - (ii) the interests of the minor may be impacted by:
 - (A) an order that has been, or may be, issued in the criminal case; or
 - (B) other proceedings that have occurred, or may occur, in the criminal case.
- (3) If a court appoints an attorney guardian ad litem in a divorce or child custody case, the court shall:
- (a) specify in the order appointing the attorney guardian ad litem the specific issues in the proceeding that the attorney guardian ad litem is required to be involved in resolving, which may include issues relating to the custody of children and parent-time schedules;
 - (b) to the extent possible, bifurcate the issues specified in the order described in Subsection (3)(a) from the other issues in the case, in order to minimize the time constraints placed upon the attorney guardian ad litem in the case; and
 - (c) except as provided in Subsection (5), within one year after the day on which the attorney guardian ad litem is appointed in the case, issue a final order:
 - (i) resolving the issues in the order described in Subsection (3)(a); and
 - (ii) terminating the appointment of the attorney guardian ad litem in the case.
- (4) A court shall issue an order terminating the appointment of an attorney guardian ad litem made under this section, if:
- (a) the court determines that the allegations of abuse or neglect are unfounded;
 - (b) after receiving input from the attorney guardian ad litem, the court determines that the children are no longer at risk of abuse or neglect; or
 - (c) there has been no activity in the case for which the attorney guardian ad litem is appointed for a period of six consecutive months.
- (5) A court may issue a written order extending the one-year period described in Subsection (3)(c) for a time certain, if the court makes a written finding that there is a compelling reason that the court cannot comply with the requirements described in Subsection (3)(c) within the one-year period.
- (6) When appointing an attorney guardian ad litem for a minor under this section, a court may appoint the same attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that attorney guardian ad litem is available.
- (7) The court is responsible for all costs resulting from the appointment of an attorney guardian ad litem and shall use funds appropriated by the Legislature for the guardian ad litem program to cover those costs.
- (8) An attorney guardian ad litem appointed in accordance with the requirements of this section and Chapter 6, Part 9, Guardian Ad Litem, is, when serving in the scope of duties of an attorney guardian ad litem, considered an employee of this state for purposes of indemnification under the Governmental Immunity Act.

Amended by Chapter 326, 2019 General Session

78A-2-704 Public policy regarding attorney guardian ad litem -- Training.

- (1) An attorney guardian ad litem may not presume that a child and the child's parent are adversaries.
- (2) An attorney guardian ad litem shall be trained on and implement into practice:
 - (a) the parental rights and child and family protection principles provided in Section 62A-4a-201;

- (b) the fundamental liberties of parents and the public policy of the state to support family unification to the fullest extent possible;
 - (c) the constitutionally protected rights of parents, in cases where the state is a party;
 - (d) the use of a least restrictive means analysis regarding state claims of a compelling child welfare interest;
 - (e) the priority of maintaining a child safely in the child's home, whenever possible;
 - (f) the importance of:
 - (i) kinship placement, in the event the child is removed from the home; and
 - (ii) keeping sibling groups together, whenever practicable and in the best interests of the children;
 - (g) the preference for kinship adoption over nonkinship adoption, if the parent-child relationship is legally terminated;
 - (h) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and
 - (i) the use of an individualized permanency plan, only as a last resort.
- (3) The office shall implement policies and practice guidelines that reflect the priorities described in Subsections (2)(e) through (i) for the placement of children.

Renumbered and Amended by Chapter 267, 2014 General Session

78A-2-705 Private attorney guardian ad litem -- Appointment -- Costs and fees -- Duties -- Conflicts of interest -- Pro bono obligation -- Indemnification -- Minimum qualifications.

- (1) The court may appoint an attorney as a private attorney guardian ad litem to represent the best interests of the minor in any district court action when:
- (a) child abuse, child sexual abuse, or neglect is alleged in any proceeding, and the court has made a finding that an adult party is not indigent as determined under Section 78B-22-202; or
 - (b) the custody of, or parent-time with, a child is at issue.
- (2)
- (a) The court shall consider the limited number of eligible private attorneys guardian ad litem, as well as the limited time and resources available to a private attorney guardian ad litem, when making an appointment under Subsection (1) and prioritize case assignments accordingly.
 - (b) The court shall make findings regarding the need and basis for the appointment of a private attorney guardian ad litem.
 - (c) A court may not appoint a private attorney guardian ad litem in a criminal case.
- (3)
- (a) If the parties stipulate to a private attorney guardian ad litem, the office shall assign the stipulated private attorney guardian ad litem to the case in accordance with this section.
 - (b) If, under Subsection (3)(a), the parties have not stipulated to a private attorney guardian ad litem, or if the stipulated private attorney guardian ad litem is unable to take the case, the court shall appoint a private attorney guardian ad litem in accordance with Subsection (3)(c).
 - (c) The court shall state in an order that the court is appointing a private attorney guardian ad litem, to be assigned by the office, to represent the best interests of the child in the matter.
 - (d) The court shall send the order described in Subsection (3)(c) to the office, in care of the Private Attorney Guardian ad Litem program.
- (4) The court shall:
- (a) specify in the order appointing a private attorney guardian ad litem the specific issues in the proceeding that the private attorney guardian ad litem shall be involved in resolving, which may include issues relating to the custody of the child and a parent-time schedule;

- (b) to the extent possible, bifurcate the issues described in Subsection (4)(a) from the other issues in the case in order to minimize the time constraints placed upon the private attorney guardian ad litem; and
- (c) except as provided in Subsection (6), issue a final order within one year after the day on which the private attorney guardian ad litem is appointed in the case:
 - (i) resolving the issues described in Subsection (4)(a); and
 - (ii) terminating the private attorney guardian ad litem from the appointment to the case.
- (5) The court shall issue an order terminating the appointment of a private attorney guardian ad litem made under this section if:
 - (a) after receiving input from the private attorney guardian ad litem, the court determines that the minor no longer requires the services of the private attorney guardian ad litem; or
 - (b) there has been no activity in the case for a period of six consecutive months.
- (6) A court may issue an order extending the one-year period described in Subsection (4)(c) for a specified amount of time if the court makes a written finding that there is a compelling reason that the court cannot comply with the requirements described in Subsection (4)(c) within the one-year period.
- (7) When appointing a private attorney guardian ad litem under this section, a court may appoint the same private attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that private attorney guardian ad litem is available.
- (8)
 - (a) Upon receipt of the court's order, described in Subsections (3)(c) and (d), the office shall assign the case to a private attorney guardian ad litem, if available, in accordance with this section.
 - (b)
 - (i) If, after the initial assignment of a private attorney guardian ad litem, either party objects to the assigned private attorney guardian ad litem, that party may file an objection with the court within seven days after the day on which the party received notice of the assigned private attorney guardian ad litem.
 - (ii) If, after the initial assignment of a private attorney guardian ad litem, either attorney for a party discovers that the private attorney guardian ad litem represents an adverse party in a separate matter, that attorney may file an objection with the court within seven days after the day on which the attorney received notice of the private attorney guardian ad litem's representation of an adverse party in a separate matter.
 - (iii) Upon receipt of an objection, the court shall determine whether grounds exist for the objection, and if grounds exist, the court shall order, without a hearing, the office to assign a new private attorney guardian ad litem, in consultation with the parties and in accordance with this section.
 - (iv) If no alternative private attorney guardian ad litem is available, the office shall notify the court.
- (9)
 - (a) When appointing a private attorney guardian ad litem, the court shall:
 - (i) assess all or part of the private attorney guardian ad litem fees, court costs, and paralegal, staff, and volunteer expenses against the parties in a proportion the court determines to be just; and
 - (ii) designate in the order whether the private attorney guardian ad litem shall, as established by rule under Subsection (17):
 - (A) be paid a set fee and initial retainer;

- (B) not be paid and serve pro bono; or
- (C) be paid at a rate less than the set fee established by court rule.
- (b) If a party claims to be impecunious, the court shall follow the procedure and make a determination, described in Section 78A-2-302, to set the amount that the party is required to pay, if any, toward the private attorney guardian ad litem's fees and expenses.
- (c) The private attorney guardian ad litem may adjust the court-ordered fees or retainer to an amount less than what was ordered by the court at any time before being released from representation by the court.
- (10) Upon accepting the court's appointment, the assigned private attorney guardian ad litem shall:
 - (a) file a notice of appearance with the court within five business days of the day on which the attorney was assigned; and
 - (b) represent the best interests of the minor until released by the court.
- (11) The private attorney guardian ad litem:
 - (a) shall be certified by the director of the office as meeting the minimum qualifications for appointment; and
 - (b) may not be employed by, or under contract with, the office unless under contract as a conflict private attorney guardian ad litem in an unrelated case.
- (12) The private attorney guardian ad litem appointed under the provisions of this section shall:
 - (a) represent the best interests of the minor from the date of the appointment until released by the court;
 - (b) conduct or supervise an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;
 - (c) interview witnesses and review relevant records pertaining to the minor and the minor's family, including medical, psychological, and school records;
 - (d)
 - (i) personally meet with the minor, unless:
 - (A) the minor is outside of the state; or
 - (B) meeting with the minor would be detrimental to the minor;
 - (ii) personally interview the minor, unless:
 - (A) the minor is not old enough to communicate;
 - (B) the minor lacks the capacity to participate in a meaningful interview; or
 - (C) the interview would be detrimental to the minor;
 - (iii) to the extent possible, determine the minor's goals and concerns regarding custody or visitation; and
 - (iv) to the extent possible, and unless it would be detrimental to the minor, keep the minor advised of:
 - (A) the status of the minor's case;
 - (B) all court and administrative proceedings;
 - (C) discussions with, and proposals made by, other parties;
 - (D) court action; and
 - (E) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;
 - (e) unless excused by the court, prepare for and attend all mediation hearings and all court conferences and hearings, and present witnesses and exhibits as necessary to protect the best interests of the minor;
 - (f) identify community resources to protect the best interests of the minor and advocate for those resources; and
 - (g) participate in all appeals unless excused by the court.

(13)

- (a) The private attorney guardian ad litem shall represent the best interests of a minor.
- (b) If the minor's intent and desires differ from the private attorney guardian ad litem's determination of the minor's best interests, the private attorney guardian ad litem shall communicate to the court the minor's intent and desires and the private attorney guardian ad litem's determination of the minor's best interests.
- (c) A difference between the minor's intent and desires and the private attorney guardian ad litem's determination of best interests is not sufficient to create a conflict of interest.
- (d) The private attorney guardian ad litem shall disclose the intent and desires of the minor unless the minor:
 - (i) instructs the private attorney guardian ad litem to not disclose the minor's intent and desires;
 - or
 - (ii) has not expressed an intent and desire.
- (e) The court may appoint one private attorney guardian ad litem to represent the best interests of more than one child of a marriage.

(14) In every court hearing where the private attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the private attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(15) A private attorney guardian ad litem appointed under this section is immune from any civil liability that might result by reason of acts performed within the scope of duties of the private attorney guardian ad litem.

(16) The office and the Guardian ad Litem Oversight Committee shall compile a list of attorneys willing to accept an appointment as a private attorney guardian ad litem.

(17) Upon the advice of the director and the Guardian ad Litem Oversight Committee, the Judicial Council shall establish by rule:

- (a) the minimum qualifications and requirements for appointment by the court as a private attorney guardian ad litem;
- (b) the standard fee rate and retainer amount for a private attorney guardian ad litem;
- (c) the percentage of cases a private attorney guardian ad litem may be expected to take on pro bono;
- (d) a system to:
 - (i) select a private attorney guardian ad litem for a given appointment; and
 - (ii) determine when a private attorney guardian ad litem shall be expected to accept an appointment pro bono; and
- (e) the process for handling a complaint relating to the eligibility status of a private attorney guardian ad litem.

(18)

- (a) Any savings that result from assigning a private attorney guardian ad litem in a district court case, instead of an office guardian ad litem, shall be applied to the office to recruit and train attorneys for the private attorney guardian ad litem program.
- (b) After complying with Subsection (18)(a), the office shall use any additional savings to reduce caseloads and improve current practices in juvenile court.

Amended by Chapter 326, 2019 General Session

Part 8

Guardian Ad Litem

78A-2-801 Definitions.

As used in this chapter:

- (1) "Abuse, neglect, or dependency petition" means the same as that term is defined in Section 80-3-102.
- (2) "Attorney guardian ad litem" means an attorney employed by the office.
- (3) "Director" means the director of the office.
- (4) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.
- (5) "Guardian ad litem" means an attorney guardian ad litem or a private attorney guardian ad litem.
- (6) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- (7) "Minor" means the same as that term is defined in Section 80-1-102.
- (8) "Office" means the Office of Guardian ad Litem created in Section 78A-2-802.
- (9) "Private attorney guardian ad litem" means an attorney designated by the office in accordance with Section 78A-2-705 who is not an employee of the office.

Enacted by Chapter 261, 2021 General Session

78A-2-802 Office of Guardian ad Litem -- Appointment of director -- Duties of director -- Contracts in second, third, and fourth districts.

- (1) There is created the Office of Guardian ad Litem under the direct supervision of the Guardian ad Litem Oversight Committee described in Subsection 78A-2-104(13).
- (2)
 - (a) The Guardian ad Litem Oversight Committee shall appoint one individual to serve full time as the guardian ad litem director for the state.
 - (b) The guardian ad litem director shall:
 - (i) serve at the pleasure of the Guardian ad Litem Oversight Committee, in consultation with the state court administrator;
 - (ii) be an attorney licensed to practice law in this state and selected on the basis of:
 - (A) professional ability;
 - (B) experience in abuse, neglect, and dependency proceedings;
 - (C) familiarity with the role, purpose, and function of guardians ad litem in both juvenile and district courts; and
 - (D) ability to develop training curricula and reliable methods for data collection and evaluation; and
 - (iii) before or immediately after the director's appointment, be trained in nationally recognized standards for an attorney guardian ad litem.
- (3) The guardian ad litem director shall:
 - (a) establish policy and procedure for the management of a statewide guardian ad litem program;
 - (b) manage the guardian ad litem program to assure that a minor receives qualified guardian ad litem services in an abuse, neglect, and dependency proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with state and federal law and policy;
 - (c) develop standards for contracts of employment and contracts with independent contractors, and employ or contract with attorneys licensed to practice law in this state, to act as attorney guardians ad litem in accordance with Section 78A-2-803;

- (d) develop and provide training programs for volunteers in accordance with the United States Department of Justice National Court Appointed Special Advocates Association standards;
 - (e) develop and update a guardian ad litem manual that includes:
 - (i) best practices for an attorney guardian ad litem; and
 - (ii) statutory and case law relating to an attorney guardian ad litem;
 - (f) develop and provide a library of materials for the continuing education of attorney guardians ad litem and volunteers;
 - (g) educate court personnel regarding the role and function of guardians ad litem;
 - (h) develop needs assessment strategies, perform needs assessment surveys, and ensure that guardian ad litem training programs correspond with actual and perceived needs for training;
 - (i) design and implement evaluation tools based on specific objectives targeted in the needs assessments described in Subsection (3)(h);
 - (j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee and the Child Welfare Legislative Oversight Panel created in Section 62A-4a-207 regarding:
 - (i) the development, policy, and management of the statewide guardian ad litem program;
 - (ii) the training and evaluation of attorney guardians ad litem and volunteers; and
 - (iii) the number of minors served by the office;
 - (k) hire, train, and supervise investigators; and
 - (l) administer the program of private attorney guardians ad litem established by Section 78A-2-705.
- (4) A contract of employment or independent contract described under Subsection (3)(c) shall provide that an attorney guardian ad litem in the second, third, and fourth judicial districts devote the attorney guardian's ad litem full time and attention to the role of attorney guardian ad litem, having no clients other than the minors whose interest the attorney guardian ad litem represents within the guardian ad litem program.

Renumbered and Amended by Chapter 261, 2021 General Session

78A-2-803 Appointment of attorney guardian ad litem -- Duties and responsibilities -- Training -- Trained staff and court-appointed special advocate volunteers -- Costs -- Immunity -- Annual report.

- (1)
 - (a) The court:
 - (i) may appoint an attorney guardian ad litem to represent the best interest of a minor involved in any case before the court; and
 - (ii) shall consider the best interest of a minor, consistent with the provisions of Section 62A-4a-201, in determining whether to appoint a guardian ad litem.
 - (b) In all cases where an attorney guardian ad litem is appointed, the court shall make a finding that establishes the necessity of the appointment.
- (2) An attorney guardian ad litem shall represent the best interest of each minor who may become the subject of an abuse, neglect, or dependency petition from the earlier of:
 - (a) the day on which the minor is removed from the minor's home by the division; or
 - (b) the day on which the abuse, neglect, or dependency petition is filed.
- (3) The director shall ensure that each attorney guardian ad litem employed by the office:
 - (a) represents the best interest of each client of the office in all venues, including:
 - (i) court proceedings; and
 - (ii) meetings to develop, review, or modify the child and family plan with the division in accordance with Section 62A-4a-205;

- (b) before representing any minor before the court, be trained in:
 - (i) applicable statutory, regulatory, and case law; and
 - (ii) nationally recognized standards for an attorney guardian ad litem;
 - (c) conducts or supervises an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;
 - (d)
 - (i) personally meets with the minor, unless:
 - (A) the minor is outside of the state; or
 - (B) meeting with the minor would be detrimental to the minor;
 - (ii) personally interviews the minor, unless:
 - (A) the minor is not old enough to communicate;
 - (B) the minor lacks the capacity to participate in a meaningful interview; or
 - (C) the interview would be detrimental to the minor; and
 - (iii) if the minor is placed in an out-of-home placement, or is being considered for placement in an out-of-home placement, unless it would be detrimental to the minor:
 - (A) to the extent possible, determines the minor's goals and concerns regarding placement; and
 - (B) personally assesses or supervises an assessment of the appropriateness and safety of the minor's environment in each placement;
 - (e) personally attends all review hearings pertaining to the minor's case;
 - (f) participates in all appeals, unless excused by order of the court;
 - (g) is familiar with local experts who can provide consultation and testimony regarding the reasonableness and appropriateness of efforts made by the division to:
 - (i) maintain a minor in the minor's home; or
 - (ii) reunify a minor with a minor's parent;
 - (h) to the extent possible, and unless it would be detrimental to the minor, personally or through a trained volunteer, paralegal, or other trained staff, keeps the minor advised of:
 - (i) the status of the minor's case;
 - (ii) all court and administrative proceedings;
 - (iii) discussions with, and proposals made by, other parties;
 - (iv) court action; and
 - (v) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;
 - (i) in cases where a child and family plan is required, personally or through a trained volunteer, paralegal, or other trained staff, monitors implementation of a minor's child and family plan and any dispositional orders to:
 - (i) determine whether services ordered by the court:
 - (A) are actually provided; and
 - (B) are provided in a timely manner; and
 - (ii) attempt to assess whether services ordered by the court are accomplishing the intended goal of the services; and
 - (j) makes all necessary court filings to advance the guardian's ad litem position regarding the best interest of the minor.
- (4)
- (a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers Act, trained paralegals, and other trained staff to assist in investigation and preparation of information regarding the cases of individual minors before the court.

- (b) A volunteer, paralegal, or other staff utilized under this section shall be trained in and follow, at a minimum, the guidelines established by the United States Department of Justice Court Appointed Special Advocate Association.
- (5) The attorney guardian ad litem shall continue to represent the best interest of the minor until released from that duty by the court.
- (6)
 - (a) Consistent with Subsection (6)(b), the juvenile court is responsible for:
 - (i) all costs resulting from the appointment of an attorney guardian ad litem; and
 - (ii) the costs of volunteer, paralegal, and other staff appointment and training.
 - (b) The court shall use funds appropriated by the Legislature for the guardian ad litem program to cover the costs described in Subsection (6)(a).
 - (c)
 - (i) When the court appoints an attorney guardian ad litem under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the minor's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:
 - (A) private attorney fees;
 - (B) counseling for the minor;
 - (C) counseling for the parent, if mandated by the court or recommended by the division; and
 - (D) any other cost the court determines to be relevant.
 - (ii) The court may not assess the fees or costs described in Subsection (6)(c)(i) against:
 - (A) a legal guardian, when that guardian is the state; or
 - (B) consistent with Subsection (6)(d), a parent who is found to be an indigent individual.
 - (d) For purposes of Subsection (6)(c)(ii)(B), if an individual claims to be an indigent individual, the court shall:
 - (i) require the individual to submit an affidavit of indigence as provided in Section 78A-2-302; and
 - (ii) follow the procedures and make the determinations as provided in Section 78A-2-304.
 - (e) The minor's parents, parent, or legal guardian may appeal the court's determination, under Subsection (6)(c), of fees, costs, and expenses.
- (7) An attorney guardian ad litem appointed under this section, when serving in the scope of the attorney guardian's ad litem duties as guardian ad litem is considered an employee of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (8)
 - (a) An attorney guardian ad litem shall represent the best interest of a minor.
 - (b) If the minor's wishes differ from the attorney's determination of the minor's best interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in addition to presenting the attorney's determination of the minor's best interest.
 - (c) A difference between the minor's wishes and the attorney's determination of best interest may not be considered a conflict of interest for the attorney.
 - (d) The guardian ad litem shall disclose the wishes of the minor unless the minor:
 - (i) instructs the guardian ad litem to not disclose the minor's wishes; or
 - (ii) has not expressed any wishes.
 - (e) The court may appoint one attorney guardian ad litem to represent the best interests of more than one minor of a marriage.

- (9) The division shall provide an attorney guardian ad litem access to all division records regarding the minor at issue and the minor's family.
- (10)
- (a) An attorney guardian ad litem shall conduct an independent investigation regarding the minor at issue, the minor's family, and what is in the best interest of the minor.
 - (b) An attorney guardian ad litem may interview the minor's child welfare worker, but may not:
 - (i) rely exclusively on the conclusions and findings of the division; or
 - (ii) except as provided in Subsection (10)(c), conduct a visit with the client in conjunction with the visit of a child welfare worker.
 - (c)
 - (i) An attorney guardian ad litem may meet with a client during a team meeting, court hearing, or similar venue when a child welfare worker is present for a purpose other than the attorney guardian ad litem's meeting with the client.
 - (ii) A party and the party's counsel may attend a team meeting in accordance with the Utah Rules of Professional Conduct.
- (11)
- (a) An attorney guardian ad litem shall maintain current and accurate records regarding:
 - (i) the number of times the attorney has had contact with each minor; and
 - (ii) the actions the attorney has taken in representation of the minor's best interest.
 - (b) In every hearing where the attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the attorney guardian ad litem to disclose the factors that form the basis of the recommendation.
- (12)
- (a) Except as provided in Subsection (12)(b), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, all records of an attorney guardian ad litem are confidential and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise.
 - (b) Consistent with Subsection (12)(d), all records of an attorney guardian ad litem:
 - (i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers; and
 - (ii) shall be released to the Legislature.
 - (c)
 - (i) Except as provided in Subsection (12)(c)(ii), the Legislature shall maintain records released in accordance with Subsection (12)(b) as confidential.
 - (ii) Notwithstanding Subsection (12)(c)(i), the Office of the Legislative Auditor General may include summary data and nonidentifying information in the office's audits and reports to the Legislature.
 - (d)
 - (i) Subsection (12)(b) is an exception to Rules of Professional Conduct, Rule 1.6, as provided by Rule 1.6(b)(4), because of:
 - (A) the unique role of an attorney guardian ad litem described in Subsection (8); and
 - (B) the state's role and responsibility to provide a guardian ad litem program, and as *parens patriae*, to protect minors.
 - (ii) A claim of attorney-client privilege does not bar access to the records of an attorney guardian ad litem by the Legislature, through legislative subpoena.

Renumbered and Amended by Chapter 261, 2021 General Session

78A-2-804 Guardian Ad Litem Services Account established -- Funding.

- (1) There is created a restricted account in the General Fund known as the Guardian Ad Litem Services Account, for the purpose of funding the office, in accordance with this part.
- (2) The account shall be funded by the donation described in Subsection 41-1a-422(1)(a)(i)(F).

Renumbered and Amended by Chapter 261, 2021 General Session

**Chapter 3
Supreme Court**

78A-3-101 Number of justices -- Terms -- Chief justice and associate chief justice -- Selection and functions.

- (1) The Supreme Court consists of five justices.
- (2) A justice of the Supreme Court shall be appointed initially to serve until the first general election held more than three years after the effective date of the appointment. Thereafter, the term of office of a justice of the Supreme Court is 10 years and commences on the first Monday in January following the date of election. A justice whose term expires may serve upon request of the Judicial Council until a successor is appointed and qualified.
- (3) The justices of the Supreme Court shall elect a chief justice from among the members of the court by a majority vote of all justices. The term of the office of chief justice is four years. The chief justice may serve successive terms. The chief justice may resign from the office of chief justice without resigning from the Supreme Court. The chief justice may be removed from the office of chief justice by a majority vote of all justices of the Supreme Court.
- (4) If the justices are unable to elect a chief justice within 30 days of a vacancy in that office, the associate chief justice shall act as chief justice until a chief justice is elected under this section. If the associate chief justice is unable or unwilling to act as chief justice, the most senior justice shall act as chief justice until a chief justice is elected under this section.
- (5) In addition to the chief justice's duties as a member of the Supreme Court, the chief justice has duties as provided by law.
- (6) There is created the office of associate chief justice. The term of office of the associate chief justice is two years. The associate chief justice shall be elected by a majority vote of the members of the Supreme Court and shall be allocated duties as the chief justice determines. If the chief justice is absent or otherwise unable to serve, the associate chief justice shall serve as chief justice. The chief justice may delegate responsibilities to the associate chief justice as consistent with law.

Amended by Chapter 429, 2019 General Session

78A-3-102 Supreme Court jurisdiction.

- (1) The Supreme Court has original jurisdiction to answer questions of state law certified by a court of the United States.
- (2) The Supreme Court has original jurisdiction to issue all extraordinary writs and authority to issue all writs and process necessary to carry into effect its orders, judgments, and decrees or in aid of its jurisdiction.

- (3) The Supreme Court has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:
 - (a) a judgment of the Court of Appeals;
 - (b) cases certified to the Supreme Court by the Court of Appeals prior to final judgment by the Court of Appeals;
 - (c) discipline of lawyers;
 - (d) final orders of the Judicial Conduct Commission;
 - (e) final orders and decrees in formal adjudicative proceedings originating with:
 - (i) the Public Service Commission;
 - (ii) the State Tax Commission;
 - (iii) the School and Institutional Trust Lands Board of Trustees;
 - (iv) the Board of Oil, Gas, and Mining;
 - (v) the state engineer; or
 - (vi) the executive director of the Department of Natural Resources reviewing actions of the Division of Forestry, Fire, and State Lands;
 - (f) final orders and decrees of the district court review of informal adjudicative proceedings of agencies under Subsection (3)(e);
 - (g) a final judgment or decree of any court of record holding a statute of the United States or this state unconstitutional on its face under the Constitution of the United States or the Utah Constitution;
 - (h) interlocutory appeals from any court of record involving a charge of a first degree or capital felony;
 - (i) appeals from the district court involving a conviction or charge of a first degree felony or capital felony;
 - (j) orders, judgments, and decrees of any court of record over which the Court of Appeals does not have original appellate jurisdiction; and
 - (k) appeals from the district court of orders, judgments, or decrees ruling on legislative subpoenas.
- (4) The Supreme Court may transfer to the Court of Appeals any of the matters over which the Supreme Court has original appellate jurisdiction, except:
 - (a) capital felony convictions or an appeal of an interlocutory order of a court of record involving a charge of a capital felony;
 - (b) election and voting contests;
 - (c) reapportionment of election districts;
 - (d) retention or removal of public officers;
 - (e) matters involving legislative subpoenas; and
 - (f) those matters described in Subsections (3)(a) through (d).
- (5) The Supreme Court has sole discretion in granting or denying a petition for writ of certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall review those cases certified to it by the Court of Appeals under Subsection (3)(b).
- (6) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

Amended by Chapter 344, 2009 General Session

78A-3-103 Supreme Court -- Rulemaking, judges pro tempore, and practice of law.

- (1) The Supreme Court shall adopt rules of procedure and evidence for use in the courts of the state and shall by rule manage the appellate process. The Legislature may amend the rules

of procedure and evidence adopted by the Supreme Court upon a vote of two-thirds of all members of both houses of the Legislature.

- (2) Except as otherwise provided by the Utah Constitution, the Supreme Court by rule may authorize retired justices and judges and judges pro tempore to perform any judicial duties. Judges pro tempore shall be citizens of the United States, Utah residents, and admitted to practice law in Utah.
- (3) The Supreme Court shall by rule govern the practice of law, including admission to practice law and the conduct and discipline of persons admitted to the practice of law.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-3-104 Appellate court administrator.

The appellate court administrator shall appoint clerks and support staff as necessary for the operation of the Supreme Court and the Court of Appeals. The duties of the clerks and support staff shall be established by the appellate court administrator, and powers established by rule of the Supreme Court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-3-105 Service of sheriff to court.

The court may at any time require the attendance and services of any sheriff in the state.

Renumbered and Amended by Chapter 3, 2008 General Session

**Chapter 4
Court of Appeals**

**Part 1
General Provisions**

78A-4-101 Creation -- Seal.

There is created a court known as the Court of Appeals. The Court of Appeals is a court of record and shall have a seal.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-4-102 Number of judges -- Terms -- Functions -- Filing fees.

- (1) The Court of Appeals consists of seven judges. The term of appointment to office as a judge of the Court of Appeals is until the first general election held more than three years after the effective date of the appointment. Thereafter, the term of office of a judge of the Court of Appeals is six years and commences on the first Monday in January, next following the date of election. A judge whose term expires may serve, upon request of the Judicial Council, until a successor is appointed and qualified. The presiding judge of the Court of Appeals shall receive as additional compensation \$1,000 per annum or fraction thereof for the period served.
- (2) The Court of Appeals shall sit and render judgment in panels of three judges. Assignment to panels shall be by random rotation of all judges of the Court of Appeals. The Court of Appeals

by rule shall provide for the selection of a chair for each panel. The Court of Appeals may not sit en banc.

- (3) The judges of the Court of Appeals shall elect a presiding judge from among the members of the court by majority vote of all judges. The term of office of the presiding judge is two years and until a successor is elected. A presiding judge of the Court of Appeals may serve in that office no more than two successive terms. The Court of Appeals may by rule provide for an acting presiding judge to serve in the absence or incapacity of the presiding judge.
- (4) The presiding judge may be removed from the office of presiding judge by majority vote of all judges of the Court of Appeals. In addition to the duties of a judge of the Court of Appeals, the presiding judge shall:
 - (a) administer the rotation and scheduling of panels;
 - (b) act as liaison with the Supreme Court;
 - (c) call and preside over the meetings of the Court of Appeals; and
 - (d) carry out duties prescribed by the Supreme Court and the Judicial Council.
- (5) Filing fees for the Court of Appeals are the same as for the Supreme Court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-4-103 Court of Appeals jurisdiction.

- (1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:
 - (a) to carry into effect its judgments, orders, and decrees; or
 - (b) in aid of its jurisdiction.
- (2) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:
 - (a)
 - (i) a final order or decree resulting from:
 - (A) a formal adjudicative proceeding of a state agency;
 - (B) a special adjudicative proceeding, as described in Section 19-1-301.5; or
 - (C) a hearing before a local school board or the State Board of Education as described in Section 53G-11-515; or
 - (ii) an appeal from the district court review of an informal adjudicative proceeding of an agency other than the following:
 - (A) the Public Service Commission;
 - (B) the State Tax Commission;
 - (C) the School and Institutional Trust Lands Board of Trustees;
 - (D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the executive director of the Department of Natural Resources;
 - (E) the Board of Oil, Gas, and Mining; or
 - (F) the state engineer;
 - (b) appeals from the district court review of:
 - (i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and
 - (ii) a challenge to agency action under Section 63G-3-602;
 - (c) appeals from the juvenile courts;
 - (d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

- (e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;
 - (f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;
 - (g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;
 - (h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;
 - (i) appeals from the Utah Military Court; and
 - (j) cases transferred to the Court of Appeals from the Supreme Court.
- (3) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.
- (4) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

Amended by Chapter 130, 2021 General Session

78A-4-104 Location of Court of Appeals.

The Court of Appeals has its principal location in Salt Lake City. The Court of Appeals may perform any of its functions in any location within the state.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-4-105 Review of actions by Supreme Court.

Review of the judgments, orders, and decrees of the Court of Appeals shall be by petition for writ of certiorari to the Supreme Court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-4-106 Appellate Mediation Office -- Protected records and information -- Governmental immunity.

- (1) Unless a more restrictive rule of court is adopted pursuant to Subsection 63G-2-201(3)(b), information and records relating to any matter on appeal received or generated by the Chief Appellate Mediator or other staff of the Appellate Mediation Office as a result of any party's participation or lack of participation in the settlement program shall be maintained as protected records pursuant to Subsections 63G-2-305(17), (18), and (33).
- (2) In addition to the access restrictions on protected records provided in Section 63G-2-202, the information and records may not be disclosed to judges, staff, or employees of any court of this state.
- (3) The Chief Appellate Mediator may disclose statistical and other demographic information as may be necessary and useful to report on the status and to allow supervision and oversight of the Appellate Mediation Office.
- (4) When acting as mediators, the Chief Appellate Mediator and other professional staff of the Appellate Mediation Office shall be immune from liability pursuant to Title 63G, Chapter 7, Governmental Immunity Act of Utah.

- (5) Pursuant to Utah Constitution, Article VIII, Section 4, the Supreme Court may exercise overall supervision of the Appellate Mediation Office as part of the appellate process.

Amended by Chapter 445, 2013 General Session

Part 2 Juvenile Courts

78A-4-201 Appellate review of juvenile courts.

To uphold the clear and compelling fundamental liberty interests and constitutionally protected rights of parents and the strong public policy in favor of maximizing family unification, appropriate appellate review shall be made available and applied in furtherance of those interests.

Enacted by Chapter 281, 2012 General Session

Chapter 5 District Court

Part 1 General Provisions

78A-5-101 State District Court Administrative System.

- (1) The district court is a trial court of general jurisdiction.
- (2) There is established a State District Court Administrative System. The Judicial Council shall administer the operation of the system.
- (3) In this chapter, "court system" means the State District Court Administrative System.
- (4) A district court shall be located in the county seat of each county.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-5-102 Jurisdiction -- Appeals.

- (1) As used in this section:
 - (a) "Qualifying offense" means an offense described in Subsection 80-6-502(1)(b).
 - (b) "Separate offense" means any offense that is not a qualifying offense.
 - (c) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- (2) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.
- (3) A district court judge may issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees.
- (4) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.
- (5) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.

- (6) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.
- (7) Jurisdiction over appeals from the final orders, judgments, and decrees of the district court is described in Sections 78A-3-102 and 78A-4-103.
- (8) The district court has jurisdiction to review:
 - (a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter in its review of agency adjudicative proceedings; and
 - (b) municipal administrative proceedings in accordance with Section 10-3-703.7.
- (9) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over:
 - (a) a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:
 - (i) there is no justice court with territorial jurisdiction;
 - (ii) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has not formed and then dissolved, a justice court; or
 - (iii) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older ; or
 - (b) a qualifying offense committed by an individual who is 16 or 17 years old.
- (10)
 - (a) Notwithstanding Subsection 78A-7-106(2), the district court has exclusive jurisdiction over any separate offense:
 - (i) committed by an individual who is 16 or 17 years old; and
 - (ii) arising from a single criminal episode containing a qualifying offense for which the district court has original jurisdiction under Subsection (9)(b).
 - (b) If an individual who is charged with a qualifying offense enters a plea to, or is found guilty of, a separate offense other than the qualifying offense, the district court shall have jurisdiction over the separate offense.
 - (c) If an individual who is 16 or 17 years old is charged with a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal, the exclusive jurisdiction of the district court over any separate offense is terminated.
- (11) If a district court has jurisdiction in accordance with Subsection (6), (9)(a)(i), or (9)(a)(ii), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.
- (12) The district court has subject matter jurisdiction over an offense for which the juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the offense to the district court in accordance with Section 80-6-504.
- (13) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the district court.

Amended by Chapter 262, 2021 General Session

78A-5-103 District court case management.

- (1) The district court of each district shall develop systems of case management.
- (2) The case management systems developed by a district court shall:
 - (a) ensure judicial accountability for the just and timely disposition of cases; and

- (b) provide for each judge a full judicial work load that accommodates differences in the subject matter or complexity of cases assigned to different judges.
- (3) A district court may establish divisions within the court for the efficient management of different types of cases. The existence of divisions within the court may not:
 - (a) affect the jurisdiction of the court nor the validity of court orders; or
 - (b) impede public access to the courts.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-5-104 Terms -- Minimum of once quarterly.

Each district court shall hold court at the county seat of each county within the district at least once in each quarter of the year.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-5-105 Term of judges -- Vacancy.

- (1) Judges of the district courts shall be appointed initially until the first general election held more than three years after the effective date of the appointment. Thereafter, the term of office for judges of the district courts is six years, and commences on the first Monday in January, next following the date of election.
- (2) A judge whose term expires may serve, upon request of the Judicial Council, until a successor is appointed and qualified.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-5-106 Presiding judge -- Associate presiding judge -- Election -- Term -- Compensation -- Powers -- Duties.

- (1) In judicial districts having more than one judge, the district court judges shall elect one judge of the district to the office of presiding judge.
- (2) In judicial districts having more than two judges, the district court judges may elect one judge of the district to the office of associate presiding judge.
- (3) In districts having five or more full-time judges, court commissioners, referees, or hearing officers, the presiding judge shall receive an additional \$2,000 per annum as compensation.
- (4) In districts having 10 or more full-time judges, court commissioners, referees, or hearing officers, the associate presiding judge shall receive an additional \$2,000 per annum as compensation.
- (5) The presiding judge has the following authority and responsibilities, consistent with the policies of the Judicial Council:
 - (a) implementing policies of the Judicial Council; and
 - (b) exercising powers and performing administrative duties as authorized by the Judicial Council.
- (6) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-5-107 Court commissioners -- Qualifications -- Appointment -- Functions governed by rule.

- (1)
 - (a) Court commissioners are quasi-judicial officers of courts of record and have limited judicial authority as provided by this section and rules of the Judicial Council.
 - (b) Court commissioners serve full-time and are subject to the restrictions of Section 78A-2-221, which prohibits the practice of law.
- (2)
 - (a) The Judicial Council shall appoint court commissioners with the concurrence of a majority of the judges of trial courts in the district the court commissioner primarily serves.
 - (b) The Judicial Council may assign court commissioners appointed under this section to serve in one or more judicial districts.
- (3) A person appointed as a court commissioner shall have the following qualifications:
 - (a) be 25 years of age or older;
 - (b) be a citizen of the United States;
 - (c) be a resident of this state while serving as court commissioner;
 - (d) be admitted to the practice of law in this state; and
 - (e) possess ability and experience in the areas of law in which the commissioner will be serving.
- (4) A court commissioner shall take and subscribe to the oath of office as required by Article IV, Sec. 10, Utah Constitution, prior to assuming the duties of the office.
- (5) Court commissioners shall:
 - (a) comply with applicable constitutional and statutory provisions, court rules and procedures, and rules of the Judicial Council;
 - (b) comply with the Code of Judicial Conduct to the same extent as full-time judges; and
 - (c) successfully complete orientation and education programs as required by the Judicial Council.
- (6) The presiding judge of the district the commissioner primarily serves:
 - (a) shall develop a performance plan for the court commissioner and annually conduct an evaluation of the commissioner's performance, and shall provide the plan and evaluations to the Judicial Council upon request; and
 - (b) is responsible for the day-to-day supervision of the court commissioner.
- (7) The Judicial Council shall:
 - (a) establish by rule procedures for the investigation and review of complaints and the discipline and removal of court commissioners; and
 - (b) evaluate court commissioners under the requirements of Subsection 78A-2-104(5).
- (8) The Judicial Council shall make uniform statewide rules defining the duties and authority of court commissioners for each level of court they serve. The rules shall not exceed constitutional limitations upon the delegation of judicial authority. The rules shall at a minimum establish:
 - (a) types of cases and matters commissioners may hear;
 - (b) types of orders commissioners may recommend;
 - (c) types of relief commissioners may recommend; and
 - (d) procedure for timely judicial review of recommendations and orders made by court commissioners.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-5-108 Duties of the clerk of the district court.

The clerk of the district court shall:

- (1) take charge of and safely keep the court seal;

- (2) take charge of and safely keep or dispose of all books, papers, and records filed or deposited with the clerk, and all other records required by law or the rules of the Judicial Council;
- (3) issue all notices, processes, and summonses as authorized by law;
- (4) keep a record of all proceedings, actions, orders, judgments, and decrees of the court;
- (5) take and certify acknowledgments and administer oaths;
- (6) supervise the deputy clerks as required to perform the duties of the clerk's office; and
- (7) perform other duties as required by the presiding judge, the court executive, applicable law, and the rules of the Judicial Council.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-5-109 Costs of system.

- (1) The cost of salaries, travel, and training required for the discharge of the duties of district court judges, court commissioners, secretaries of judges or court executives, court executives, and court reporters shall be paid from appropriations made by the Legislature.
- (2) Except as provided in Subsection (1), the Judicial Council may directly provide for the actual and necessary expenses of operation of the district court, including personnel salary and benefits, travel, training, facilities, security, equipment, furniture, supplies, legal reference materials, and other operating expenses, or may contract with the county in a county seat or with the unit of local government in municipalities other than a county seat for the actual and necessary expenses of the district court. Any necessary contract with the county or unit of local government shall be pursuant to Subsection 78A-5-111(4).

Renumbered and Amended by Chapter 3, 2008 General Session

78A-5-110 Allocation of district court fees and forfeitures.

- (1) Except as provided in this section, district court fines and forfeitures collected for violation of state statutes shall be paid to the state treasurer.
- (2) Fines and forfeitures collected by the court for violation of a state statute or county or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the state treasurer and 1/2 to the treasurer of the state or local governmental entity which prosecutes or which would prosecute the violation.
- (3)
 - (a) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code of Utah, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, shall be paid to the state treasurer.
 - (b) For violations of Title 23, Wildlife Resources Code of Utah, the state treasurer shall allocate 85% to the Division of Wildlife Resources and 15% to the General Fund.
 - (c) For violations of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the state treasurer shall allocate 85% to the Division of Recreation and 15% to the General Fund.
- (4)
 - (a) The state treasurer shall allocate fines and forfeitures collected for a violation of Section 72-7-404 or 72-7-406, less fees established by the Judicial Council, to the Department of Transportation for use on class B and class C roads.
 - (b) Fees established by the Judicial Council shall be deposited in the state General Fund.

- (c) Money allocated for class B and class C roads is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.
- (5)
 - (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:
 - (i) 60% to the state treasurer to be deposited in the Transportation Fund; and
 - (ii) 40% in accordance with Subsection (2).
 - (b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:
 - (i) 50% to the state treasurer to be deposited in the Transportation Fund; and
 - (ii) 50% in accordance with Subsection (2).
- (6) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 40% to the treasurer of the state or local governmental entity that prosecutes or that would prosecute the violation, and 40% to the General Fund.
- (7) Fines and forfeitures collected for any violations not specified in this chapter or otherwise provided for by law shall be paid to the state treasurer.
- (8) Fees collected in connection with civil actions filed in the district court shall be paid to the state treasurer.
- (9) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 280, 2021 General Session

78A-5-111 Transfer of court operating responsibilities -- Facilities -- Staff -- Budget.

- (1) A county's determination to transfer responsibility for operation of the district court to the state is irrevocable.
- (2)
 - (a) Court space suitable for the conduct of judicial business as specified by the Judicial Council shall be provided by the state from appropriations made by the Legislature for these purposes.
 - (b) The state may, in order to carry out its obligation to provide these facilities, lease space from a county, or reimburse a county for the number of square feet used by the district. Any lease and reimbursement shall be determined in accordance with the standards of the State Building Board applicable to state agencies generally. A county or municipality terminating a lease with the court shall provide written notice to the Judicial Council at least one year prior to the effective date of the termination.
 - (c) District courts shall be located in municipalities that are sites for the district court or circuit court as of January 1, 1994. Removal of the district court from the municipality shall require prior legislative approval by joint resolution.
- (3) The state shall provide legal reference materials for all district judges' chambers and courtrooms, as required by Judicial Council rule. Maintenance of county law libraries shall be in consultation with the court executive of the district court.
- (4)

- (a) At the request of the Judicial Council, the county or municipality shall provide staff for the district court in county seats or municipalities under contract with the administrative office of the courts.
- (b) Payment for necessary expenses shall be by a contract entered into annually between the state and the county or municipality, which shall specifically state the agreed costs of personnel, supplies, and services, as well as the method and terms of payment.
- (c) Workload measures prepared by the state court administrator and projected costs for the next fiscal year shall be considered in the negotiation of contracts.
- (d) Each May 1 preceding the general session of the Legislature, the county or municipality shall submit a budget request to the Judicial Council, the governor, and the legislative fiscal analyst for services to be rendered as part of the contract under Subsection (4)(b) for the fiscal year immediately following the legislative session. The Judicial Council shall consider this information in developing its budget request. The legislative fiscal analyst shall provide the Legislature with the county's or municipality's original estimate of expenses. By June 15 preceding the state's fiscal year, the county and the state court administrator shall negotiate a contract to cover expenses in accordance with the appropriation approved by the Legislature. The contracts may not include payments for expenses of service of process, indigent defense costs, or other costs or expenses provided by law as an obligation of the county or municipality.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 2 Drug Court

78A-5-201 Creation and expansion of existing drug court programs -- Definition of drug court program -- Criteria for participation in drug court programs -- Reporting requirements.

- (1) There may be created a drug court program in any judicial district that demonstrates:
 - (a) the need for a drug court program; and
 - (b) the existence of a collaborative strategy between the court, prosecutors, defense counsel, corrections, and substance abuse treatment services to reduce substance abuse by offenders.
- (2) The collaborative strategy in each drug court program shall:
 - (a) include monitoring and evaluation components to measure program effectiveness; and
 - (b) be submitted to, for the purpose of coordinating the disbursement of funding, the:
 - (i) executive director of the Department of Human Services;
 - (ii) executive director of the Department of Corrections; and
 - (iii) state court administrator.
- (3)
 - (a) Funds disbursed to a drug court program shall be allocated as follows:
 - (i) 87% to the Department of Human Services for testing, treatment, and case management; and
 - (ii) 13% to the Administrative Office of the Courts for increased judicial and court support costs.
 - (b) This provision does not apply to federal block grant funds.
- (4) A drug court program shall include continuous judicial supervision using a cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment services,

juvenile court probation, and the Division of Child and Family Services as appropriate to promote public safety, protect participants' due process rights, and integrate substance abuse treatment with justice system case processing.

- (5) Screening criteria for participation in a drug court program shall include:
 - (a) a plea to, conviction of, or adjudication for a nonviolent drug offense or drug-related offense;
 - (b) an agreement to frequent alcohol and other drug testing;
 - (c) participation in one or more substance abuse treatment programs; and
 - (d) an agreement to submit to sanctions for noncompliance with drug court program requirements.
- (6)
 - (a) The Judicial Council shall develop rules prescribing eligibility requirements for participation in adult criminal drug courts.
 - (b) Acceptance of an offender into a drug court shall be based on a risk and needs assessment, without regard to the nature of the offense.

Amended by Chapter 412, 2015 General Session

78A-5-202 Creation of Drug Board Pilot Project -- Definition of Drug Board Pilot Project -- Criteria for parolee participation in the Drug Board Pilot Project -- Reporting requirements.

- (1) There may be created a Drug Board Pilot Project in Davis and Weber counties that includes intensive substance abuse treatment, frequent drug testing, and other additional conditions of parole, with the expectation that the offender will be required to complete the substance abuse treatment, remain drug free, and meet all other conditions of parole.
- (2) Screening criteria for parolee participation in the Drug Board Pilot Project shall:
 - (a) be determined by the Board of Pardons and Parole and the Department of Corrections; and
 - (b) include parolees who are facing an eminent return to prison due to substance abuse.

Renumbered and Amended by Chapter 3, 2008 General Session

**Part 3
Veterans Treatment Court Act**

78A-5-301.5 Title.

This part is known as the "Veterans Treatment Court Act."

Enacted by Chapter 62, 2020 General Session

78A-5-302 Definitions.

As used in this part:

- (1) "Defendant" means a veteran charged with a criminal offense.
- (2) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (3)
 - (a) "Participant agreement" means the record, required by Subsection 78A-5-304(1), of the policies and procedures of a veterans treatment court and any specific terms and conditions applicable to the defendant.
 - (b) "Participant agreement" includes a modification under Section 78A-5-310.

- (4) "Record," except as otherwise provided in Subsection 78A-5-307(1)(c), means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (5) "Servicemember" means:
 - (a) a member of the active or reserve components of the armed forces as defined in Section 68-3-12.5; or
 - (b) a member of the National Guard of the United States.
- (6)
 - (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
 - (b) "State" includes a federally recognized Indian tribe.
- (7) "Veteran" means a former servicemember who qualifies for health care benefits from the Veterans Administration.
- (8) "Veterans treatment court" means a veterans treatment court program administered under this part by a court of this state.

Amended by Chapter 93, 2021 General Session

78A-5-303 Creation of a veterans treatment court.

- (1) The Judicial Council may create a veterans treatment court in any judicial district or geographic region that demonstrates:
 - (a) the need for a veterans treatment court; and
 - (b) the existence of a collaborative strategy between the veterans treatment court, prosecutors, defense attorneys, substance abuse treatment services, the Department of Corrections, and the United States Department of Veterans Affairs Veterans Justice Outreach Program to work with veteran offenders.
- (2) A veterans treatment court shall:
 - (a) establish a collaborative strategy that includes monitoring and evaluation components to measure program effectiveness; and
 - (b) submit a collaborative strategy, for the purpose of coordinating the disbursement of funding, to the Administrative Office of the Courts.
- (3) A veterans treatment court shall include continuous judicial supervision using a cooperative approach with prosecutors, defense attorneys, substance abuse treatment services, the Department of Corrections, and the United States Department of Veterans Affairs Veterans Justice Outreach Program, as appropriate, to promote public safety, protect participants' due process rights, and integrate veteran treatment programs with the justice system case processing.
- (4) Screening criteria for participation in a veterans treatment court shall include:
 - (a) a plea in abeyance or plea agreement for a criminal offense, or a requirement for participation in a veterans treatment court as a condition of probation;
 - (b) frequent alcohol and other drug testing, if appropriate;
 - (c) participation in veteran outreach programs, including substance abuse treatment programs where appropriate;
 - (d) sanctions for noncompliance with the requirements for participation in a veterans treatment court; and
 - (e) any additional criteria developed by a veterans treatment court.

- (5) No later than October 1 each year, the Administrative Office of the Courts shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report describing:
- (a) the types of policies and procedures adopted by veteran treatment courts;
 - (b) the number of veteran participants in the previous fiscal year;
 - (c) the outcomes for veteran participants in the previous fiscal year; and
 - (d) recommendations for future veterans treatment courts, including expansion and funding.

Enacted by Chapter 62, 2020 General Session

78A-5-304 Record of policies and procedures.

- (1) A veterans treatment court shall create a record of policies and procedures adopted to implement Sections 78A-5-305 through 78A-5-312.
- (2) A veterans treatment court shall seek input from prosecutors, defense attorneys, and other interested persons in developing and adopting policies and procedures to implement Sections 78A-5-305 through 78A-5-312.

Enacted by Chapter 62, 2020 General Session

78A-5-305 Policies and procedures for a veterans treatment court.

- (1) A veterans treatment court shall adopt policies and procedures to:
 - (a) integrate alcohol-treatment, drug-treatment, and mental-health services with the defendant's criminal case;
 - (b) use a nonadversarial approach in which prosecutors and defense attorneys promote public safety while protecting due-process rights of defendants;
 - (c) exercise early identification of eligible defendants;
 - (d) provide access to a continuum of alcohol-treatment, drug-treatment, mental-health treatment, and other related treatment and rehabilitation services;
 - (e) monitor defendants for abstinence from alcohol and drugs by frequent testing;
 - (f) direct a coordinated strategy that responds to each defendant's needs;
 - (g) provide ongoing judicial interaction with each defendant;
 - (h) monitor and evaluate the achievement of goals;
 - (i) continue interdisciplinary education to promote effective veterans treatment court planning, implementation, and operations; and
 - (j) forge partnerships between the veterans treatment court and the United States Department of Veterans Affairs Veterans Justice Outreach Program, the Department of Veterans and Military Affairs, public agencies, and community-based organizations to generate local support and enhance the effectiveness of the veterans treatment court.
- (2) In adopting policies and procedures under this section, the court shall consider nationally recognized best practices to implement the policies and procedures described in Subsection (1) and comply with certification standards for problem-solving courts adopted by the Judicial Council.

Enacted by Chapter 62, 2020 General Session

78A-5-306 Supplemental policies and procedures of veterans treatment court.

- (1) A veterans treatment court may adopt supplemental policies and procedures to:
 - (a) refer a defendant with a medical or medication need to an appropriate health care provider;

- (b) refer a defendant to other available services, including assistance with housing, employment, nutrition, and education;
 - (c) provide a defendant access to a mentor who is a veteran;
 - (d) integrate intervention, treatment, and counseling, as part of the rehabilitative services offered to a defendant who has been a victim of domestic violence, sexual trauma, child abuse, or other trauma;
 - (e) confer with the victim or alleged victim of the domestic violence offense for which the defendant is charged that serves as the basis for the defendant's participation in the veterans treatment court;
 - (f) evaluate and assess a defendant charged with a domestic violence offense and integrate specific counseling as part of the total rehabilitative services for the defendant;
 - (g) monitor a defendant charged with a domestic violence offense to assure compliance with a domestic violence protection order, no-contact order, and prohibition of weapon possession; and
 - (h) otherwise assist the veterans treatment court.
- (2) In adopting policies and procedures under this section, the veterans treatment court shall consider nationally recognized best practices related to policies and procedures described in Subsection (1) and comply with certification standards for problem-solving courts adopted by the Judicial Council.

Enacted by Chapter 62, 2020 General Session

78A-5-307 Eligibility.

- (1) A defendant is eligible to be screened for participation in a veterans treatment court if:
- (a) the defendant is a veteran;
 - (b) the defendant has a mental-health condition, traumatic brain injury, or substance use disorder;
 - (c) the defendant agrees on the court record to voluntarily:
 - (i) participate in the veterans treatment court;
 - (ii) enter into a plea in abeyance or plea agreement, or participate in a veterans treatment court as a condition of probation; and
 - (iii) adhere to a participant agreement; and
 - (d) as determined by the court, the defendant's participation in the veterans treatment court would be in the interest of justice and of benefit to the defendant and the community.
- (2) In making the determination under Subsection (1)(d), a court shall consider:
- (a) the nature and circumstances of the offense charged;
 - (b) special characteristics or circumstances of the defendant, including the defendant's criminogenic risk and need;
 - (c) the defendant's criminal history and whether the defendant previously participated in a veterans treatment court or a similar program;
 - (d) whether the defendant's needs exceed treatment resources available to the veterans treatment court;
 - (e) the impact on the community of the defendant's participation and treatment in the veterans treatment court;
 - (f) special characteristics or circumstances of the victim or alleged victim;
 - (g) provision for, and the likelihood of obtaining, restitution from the defendant over the course of participation in the veterans treatment court;

- (h) the recommendation of the prosecutor regarding whether the defendant should participate in a veterans treatment court;
 - (i) mitigating circumstances; and
 - (j) other circumstances reasonably related to the defendant, the defendant's case, and available resources.
- (3) Section 77-37-3 applies when making the determination under Subsections (1) and (2).

Enacted by Chapter 62, 2020 General Session

78A-5-308 Requirement for admission.

For a defendant to be admitted to a veterans treatment court, the defendant and prosecutor must sign, and the court must approve, a participant agreement and a plea in abeyance, plea agreement, or probation agreement.

Enacted by Chapter 62, 2020 General Session

78A-5-309 Victim of domestic violence.

- (1) If a victim or alleged victim of a domestic violence offense that serves as the basis for the defendant's participation in a veterans treatment court can be reasonably located, the victim or alleged victim must be offered:
- (a) referrals to domestic violence service providers; and
 - (b) information on how to report an allegation of:
 - (i) an offense committed by the defendant; or
 - (ii) a violation by the defendant of the participant agreement.
- (2) Except as expressly provided for in this part, the participation of the defendant in a veterans treatment court does not alter the rights of a victim or alleged victim of domestic violence under the law of this state.

Enacted by Chapter 62, 2020 General Session

78A-5-310 Modification or termination.

- (1)
- (a) If a prosecutor finds that a defendant has failed to comply with the defendant's participant agreement, the prosecutor may notify the veterans treatment court and the defendant of the defendant's failure to comply with the participant agreement.
 - (b) Any notice by a prosecutor under Subsection (1)(a) shall include specific allegations of the defendant's non-compliant conduct with the participant agreement.
- (2) Upon notice under Subsection (1), or upon any other notice that the defendant has failed to comply with the defendant's participant agreement, the veterans treatment court shall hold a hearing, after giving notice to all parties, on the defendant's failure to comply with the participant agreement.
- (3) At the hearing described in Subsection (2), the veterans treatment court shall:
- (a) review the defendant's conduct under the participant agreement; and
 - (b) hear recommendations from all parties in order to determine whether the defendant's participation in the veterans treatment court should be modified or terminated.
- (4) After notice and a hearing is provided in accordance with this section, the veterans treatment court may modify or terminate a defendant's participation in a veterans treatment court.

Enacted by Chapter 62, 2020 General Session

78A-5-311 Completion of the participant agreement.

If the veterans treatment court determines that a defendant has completed the requirements of the defendant's participant agreement, the court shall adjudicate the defendant's case in accordance with the defendant's participant agreement and any applicable plea in abeyance agreement, plea agreement, probation agreement, court order, or judgment.

Enacted by Chapter 62, 2020 General Session

78A-5-312 No right to participate.

This part does not create a right to participation in a veterans treatment court.

Enacted by Chapter 62, 2020 General Session

78A-5-313 Severability.

If any provision of this part, or the application of any provision of this part to any person or circumstance, is held invalid, the remainder of this part shall be given effect without the invalid provision or application.

Enacted by Chapter 62, 2020 General Session

**Chapter 6
Juvenile Court**

**Part 1
General Provisions**

78A-6-101 Title.

This chapter is known as "Juvenile Court."

Amended by Chapter 261, 2021 General Session

78A-6-101.5 Definitions.

The terms defined in Section 80-1-102 apply to this chapter.

Enacted by Chapter 261, 2021 General Session

78A-6-102 Establishment of juvenile court -- Organization and status of court -- Purpose.

(1) There is established a juvenile court for the state.

(2)

(a) The juvenile court is a court of record.

(b) The juvenile court shall have a seal.

(c) The juvenile court's judges, clerks, and referees have the power to administer oaths and affirmations.

- (d) The juvenile court has the authority to issue search warrants, subpoenas, or investigative subpoenas under Section 62A-4a-202.1, Part 4a, Adult Criminal Proceedings, and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Chapter 4, Termination and Restoration of Parental Rights, and Chapter 6, Juvenile Justice, for the same purposes and in the same manner as described in Title 77, Utah Code of Criminal Procedure, and the Utah Rules of Criminal Procedure, for the issuance of search warrants, subpoenas, or investigative subpoenas in other trial courts in the state.
- (3) The juvenile court is of equal status with the district courts of the state.
- (4) The juvenile court is established as a forum for the resolution of all matters properly brought before the juvenile court, consistent with applicable constitutional and statutory requirements of due process.
- (5) The purpose of the court under this chapter is to:
 - (a) promote public safety and individual accountability by the imposition of appropriate sanctions on persons who have committed acts in violation of law;
 - (b) order appropriate measures to promote guidance and control, preferably in the minor's own home, as an aid in the prevention of future unlawful conduct and the development of responsible citizenship;
 - (c) where appropriate, order rehabilitation, reeducation, and treatment for persons who have committed acts bringing them within the court's jurisdiction;
 - (d) adjudicate matters that relate to minors who are beyond parental or adult control and to establish appropriate authority over these minors by means of placement and control orders;
 - (e) adjudicate matters that relate to abused, neglected, and dependent children and to provide care and protection for minors by placement, protection, and custody orders;
 - (f) remove a minor from parental custody only where the minor's safety or welfare, or the public safety, may not otherwise be adequately safeguarded; and
 - (g) consistent with the ends of justice, act in the best interests of the minor in all cases and preserve and strengthen family ties.

Amended by Chapter 261, 2021 General Session

78A-6-103 Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

- (1) Except as otherwise provided by Subsections 78A-5-102(9), 78A-5-102(10), and 78A-7-106(2), the juvenile court has original jurisdiction over:
 - (a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child; and
 - (b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:
 - (i) who is under 21 years old at the time of all court proceedings; and
 - (ii) who was under 18 years old at the time the offense was committed.
- (2) The juvenile court has original jurisdiction over any proceeding concerning:
 - (a) a child who is an abused child, neglected child, or dependent child;
 - (b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;
 - (c) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;
 - (d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

- (e) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;
 - (f) the treatment or commitment of a minor who has an intellectual disability;
 - (g) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;
 - (h) an order for a parent or a guardian of a child under Subsection 80-6-705(3);
 - (i) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;
 - (j) the treatment or commitment of a child with a mental illness;
 - (k) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;
 - (l) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;
 - (m) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;
 - (n) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;
 - (o) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of Juvenile Justice Services, the child has demonstrated that the child:
 - (i) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or
 - (ii) has run away from home; and
 - (p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court.
- (3) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection (2)(p).
- (4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.
- (5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.
- (6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.
- (7) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Amended by Chapter 261, 2021 General Session

78A-6-103.5 Exclusive jurisdiction of the juvenile court.

- (1) Except as provided in Subsection (3), the juvenile court has exclusive jurisdiction over a felony, misdemeanor, infraction, or violation of an ordinance:
- (a) committed by a child and that arises from a single criminal episode containing an offense for which:
 - (i) a citation, petition, indictment, or criminal information is filed; and
 - (ii) the court has original jurisdiction; and

- (b) committed by an individual who is under 21 years old at the time of all court proceedings, but committed before the individual was 18 years old, and that arises from a single criminal episode containing an offense for which:
 - (i) a citation, petition, indictment, or criminal information is filed; and
 - (ii) the court has original jurisdiction.
- (2) For purposes of this section, the juvenile court has jurisdiction over the following offenses committed by an individual who is under 21 years old at the time of all court proceedings, but was under 18 years old at the time the offense was committed:
 - (a) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and
 - (b) Section 73-18-12.
- (3) If a juvenile court transfers jurisdiction of an offense to the district court under Section 80-6-504, the exclusive jurisdiction of the juvenile court over that offense is terminated.
- (4)
 - (a) As used in this Subsection (4):
 - (i) "Qualifying offense" means an offense described in Sections 80-6-502 and 80-6-503.
 - (ii) "Separate offense" means any offense that is not a qualifying offense.
 - (b) The juvenile court:
 - (i) regains exclusive jurisdiction over any separate offense described in Subsection (1) if:
 - (A) the individual who is alleged to have committed the separate offense is bound over to the district court for a qualifying offense under Section 80-6-504; and
 - (B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal; and
 - (ii) gains exclusive jurisdiction over any separate offense described in Subsection (1) if:
 - (A) the individual who is alleged to have committed the separate offense is charged for a qualifying offense under Section 80-6-502 in the district court; and
 - (B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal in the district court.

Enacted by Chapter 261, 2021 General Session

78A-6-104 Concurrent jurisdiction of the juvenile court -- Transfer of a protective order.

- (1)
 - (a) The juvenile court has jurisdiction, concurrent with the district court:
 - (i) to establish paternity, or to order testing for purposes of establishing paternity, for a child in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, when a proceeding is initiated under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights, that involves the child;
 - (ii) over a petition to modify a minor's birth certificate if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103; and
 - (iii) over questions of custody, support, and parent-time of a minor if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103.
 - (b) If the juvenile court obtains jurisdiction over a paternity action under Subsection (1)(a)(i), the juvenile court may:
 - (i) retain jurisdiction over the paternity action until paternity of the child is adjudicated; or
 - (ii) transfer jurisdiction over the paternity action to the district court.
- (2)
 - (a) The juvenile court has jurisdiction, concurrent with the district court or the justice court otherwise having jurisdiction, over a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed:

- (i) an offense under Section 32B-4-403, unlawful sale, offer for sale, or furnishing to a minor;
 - (ii) an offense under Section 53G-6-202, failure to comply with compulsory education requirements;
 - (iii) an offense under Section 62A-4a-411, failure to report;
 - (iv) a misdemeanor offense under Section 76-5-303, custodial interference;
 - (v) an offense under Section 76-10-2301, contributing to the delinquency of a minor; or
 - (vi) an offense under Section 80-5-601, harboring a runaway.
- (b) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a).
- (3)
- (a) When a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the child comes within the jurisdiction of the juvenile court under Section 78A-6-103.
 - (b)
 - (i) The juvenile court may, by order, change the custody subject to Subsection 30-3-10(6), support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child.
 - (ii) An order by the juvenile court under Subsection (3)(b)(i) remains in effect so long as the juvenile court continues to exercise jurisdiction.
 - (c) If a copy of the findings and order of the juvenile court under this Subsection (3) are filed with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.
- (4) This section does not deprive the district court of jurisdiction to:
- (a) appoint a guardian for a child;
 - (b) determine the support, custody, and parent-time of a child upon writ of habeas corpus; or
 - (c) determine a question of support, custody, and parent-time that is incidental to the determination of an action in the district court.
- (5) A juvenile court may transfer a petition for a protective order for a child to the district court if the juvenile court has entered an ex parte protective order and finds that:
- (a) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;
 - (b) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and
 - (c) the best interests of the child will be better served in the district court.

Repealed and Re-enacted by Chapter 261, 2021 General Session

78A-6-120 Continuing jurisdiction of juvenile court -- Period of and termination of jurisdiction.

- (1) Except as provided in Subsection (2), if the juvenile court obtains jurisdiction of a minor's case, the juvenile court's jurisdiction over the minor's case continues until:
 - (a) the minor is 21 years old; or
 - (b) if the juvenile court extends jurisdiction over the minor's case under Section 80-6-605, the minor is 25 years old.
- (2)

- (a) The juvenile court's continuing jurisdiction under Subsection (1) terminates:
 - (i) upon order of the court;
 - (ii) upon an order for secure care under Section 80-6-705 ; or
 - (iii) in accordance with Section 80-6-712.
- (b) The continuing jurisdiction of the juvenile court over a minor's case is not terminated:
 - (i) by marriage; or
 - (ii) when a minor commits an offense under municipal, state, or federal law that is under the jurisdiction of another court.
- (c) Notwithstanding Subsection (2)(a)(ii), the juvenile court retains jurisdiction to make and enforce orders related to restitution until the Youth Parole Authority discharges the minor under Section 80-6-807.

Amended by Chapter 261, 2021 General Session

Part 2 Administration

78A-6-201 Judges of juvenile court -- Appointments -- Terms.

- (1)
 - (a) A judge of the juvenile court shall be appointed initially to serve until the first general election held more than three years after the day on which the appointment is effective.
 - (b) After the initial term described in Subsection (1)(a), the term of office of a juvenile court judge is six years and commences on the first Monday in January next following the date of election.
- (2) A juvenile court judge whose term expires may serve, upon request of the Judicial Council, until a successor is appointed and qualified.

Amended by Chapter 261, 2021 General Session

78A-6-202 Sessions of juvenile court.

- (1) In each county, regular juvenile court sessions shall be held at a place designated by the judge or judges of the juvenile court district, with the approval of the board.
- (2) Juvenile court sessions shall be held in each county when the presiding judge of the juvenile court directs, except that a judge of the district may hold court in any county within the district at any time if required by the urgency of the case.

Amended by Chapter 261, 2021 General Session

78A-6-203 Board of Juvenile Court Judges -- Composition -- Purpose -- Presiding judge.

- (1)
 - (a) The Judicial Council shall, by rule, establish a Board of Juvenile Court Judges.
 - (b) The board shall establish general policies for the operation of the juvenile courts and uniform rules and forms governing practice, consistent with the provisions of this chapter, the rules of the Judicial Council, and the rules of the Supreme Court.
- (c)

- (i) The board may receive and expend any funds that may become available from the federal government or private sources to carry out any of the purposes described in Subsection 78A-6-102(5) .
 - (ii) The board may meet any federal requirements that are conditions precedent to receiving the funds.
 - (iii) The board may cooperate with the federal government in a program for training personnel employed, or preparing for employment, by the juvenile court and may receive and expend funds from federal or state sources or from private donations for these purposes.
 - (iv) Funds donated or paid to the juvenile court by private sources for the purpose of compensatory service programs are nonlapsing.
 - (v) The board may:
 - (A) contract with public or nonprofit institutions of higher learning for the training of personnel;
 - (B) conduct short-term training courses of the board's own and hire experts on a temporary basis for this purpose; and
 - (C) cooperate with the Division of Child and Family Services and other state departments or agencies in personnel training programs.
 - (d) The board may contract, on behalf of the juvenile court, with the United States Forest Service or other agencies or departments of the federal government or with agencies or departments of other states for the care and placement of minors adjudicated under Title 80, Utah Juvenile Code.
 - (e) The powers to contract and expend funds are subject to budgetary control and procedures as provided by law.
- (2) Under the direction of the presiding officer of the council, the chair shall supervise the juvenile courts to:
- (a) ensure uniform adherence to law and to the rules and forms adopted by the Supreme Court and Judicial Council; and
 - (b) promote the proper and efficient functioning of the juvenile courts.
- (3)
- (a) The judges of districts having more than one juvenile court judge shall elect a presiding juvenile court judge.
 - (b) In districts comprised of five or more juvenile court judges and court commissioners, the presiding juvenile court judge shall receive an additional \$1,000 per annum as compensation.
- (4) The presiding juvenile court judge, in accordance with the policies of the Judicial Council, shall:
- (a) implement policies of the Judicial Council;
 - (b) exercise powers and perform administrative duties as authorized by the Judicial Council;
 - (c) manage the judicial business of the district; and
 - (d) call and preside over meetings of juvenile court judges of the district.

Amended by Chapter 261, 2021 General Session

78A-6-204 Administrator of juvenile court -- Appointment -- Qualifications -- Powers and duties.

- (1) With the approval of the board, the state court administrator shall appoint a chief administrative officer of the juvenile court.
- (2) The chief administrative officer shall:
 - (a) be selected on the basis of professional ability and experience in the field of public administration; and

- (b) possess an understanding of court procedures and the nature and significance of probation services and other court services.

Amended by Chapter 261, 2021 General Session

78A-6-205 Court executives -- Selection -- Duties.

- (1)
 - (a) The chief administrative officer of the juvenile court, with the approval of the juvenile court judge of each district or the presiding juvenile court judge of multiple judge districts, shall appoint a court executive for each district.
 - (b) A court executive appointed under Subsection (1)(a) serves at the pleasure of the chief administrative officer.
- (2) The court executive shall:
 - (a) appoint a clerk of the court, district managers, and other staff, including juvenile probation officers, as required to carry out the work of the court;
 - (b) supervise the work of all nonjudicial court staff of the district; and
 - (c) serve as administrative officer of the district.
- (3)
 - (a) The clerk shall keep a record of court proceedings.
 - (b) The clerk may issue all process and notices required.

Amended by Chapter 261, 2021 General Session

78A-6-206 Juvenile court employees -- Salaries -- State courts personnel system -- Exemptions and discharge.

- (1) All employees, except juvenile court judges and commissioners, shall be selected, promoted, and discharged through the state courts personnel system for the juvenile court under the direction and rules of the board and the Judicial Council.
- (2)
 - (a) An employee under the state courts personnel system may not be discharged except for cause and after a hearing before the appointing authority with an appeal as provided by the state courts personnel system.
 - (b) An employee may be suspended pending the hearing and appeal under Subsection (2)(a).

Amended by Chapter 261, 2021 General Session

78A-6-207 Volunteers.

- (1) The name of a volunteer serving in a case under Section 78A-2-803 shall be stated in the court records of the case.
- (2) A volunteer of record under Subsection (1) is:
 - (a) considered a volunteer to the juvenile court; and
 - (b) a volunteer under Title 67, Chapter 20, Volunteer Government Workers Act.

Amended by Chapter 261, 2021 General Session

78A-6-208 Mental health evaluations -- Duty of administrator.

- (1) The chief administrative officer of the juvenile court, with the approval of the board, and the executive director of the Department of Health, and director of the Division of Substance Abuse and Mental Health shall from time to time agree upon an appropriate plan:
 - (a) for obtaining mental health services and health services for the juvenile court from the state and local health departments and programs of mental health; and
 - (b) for assistance by the Department of Health or the Division of Substance Abuse and Mental Health in securing for the juvenile court special health, mental health, juvenile competency evaluations, and related services including community mental health services not already available from the Department of Health and the Division of Substance Abuse and Mental Health.
- (2) The Legislature may provide an appropriation to the Department of Health and the Division of Substance Abuse and Mental Health for the services under Subsection (1).

Amended by Chapter 261, 2021 General Session

78A-6-209 Court records -- Inspection.

- (1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.
- (2) A court record shall be open to inspection by:
 - (a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;
 - (b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Person, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;
 - (c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;
 - (d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and administrative hearings in accordance with Section 62A-4a-1009;
 - (e) the Office of Licensing for the purpose of conducting a background check in accordance with Section 62A-2-120;
 - (f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision concerning licensure;
 - (g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21,

Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision under that part; and

- (h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 26-8a-302, with the understanding that the Department of Health must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a determination.
- (3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.
- (4) If a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.
- (5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.
- (6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Amended by Chapter 261, 2021 General Session

78A-6-210 Fines -- Fees -- Deposit with state treasurer -- Restricted account.

- (1) There is created a restricted account in the General Fund known as the "Nonjudicial Adjustment Account."
- (2)
 - (a) The account shall be funded from the financial penalty established under Subsection 80-6-304(6)(a).
 - (b) The court shall deposit all money collected as a result of penalties assessed as part of the nonjudicial adjustment of a case into the account.
 - (c) The account shall be used to pay the expenses of juvenile compensatory service, victim restitution, and diversion programs.
- (3)
 - (a) Except under Subsection (3)(b) or (4) and as otherwise provided by law, the juvenile court shall pay all fines, fees, penalties, and forfeitures imposed and collected by the juvenile court to the state treasurer for deposit into the General Fund.
 - (b) No more than 50% of any fine or forfeiture collected may be paid to a state rehabilitative employment program for a minor adjudicated under Section 80-6-701 that provides for employment of the minor in the county of the minor's residence if:
 - (i) reimbursement for the minor's labor is paid to the victim of the offense or wrongful act committed by the minor;
 - (ii) the amount earned and paid is set by court order;
 - (iii) the minor is not paid more than the hourly minimum wage; and

- (iv) no payments to victims are made without the minor's involvement in a rehabilitative work program.
- (c) Fines withheld under Subsection (3)(b) and any private contributions to the rehabilitative employment program are accounted for separately and are subject to audit at any time by the state auditor.
- (d)
 - (i) Funds withheld under Subsection (3)(b) and private contributions are nonlapsing.
 - (ii) The board shall establish policies for the use of the funds described in this Subsection (3)(d).
- (4) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 80% to the General Fund.
- (5) A state or local public officer may not charge a fee for the service of process in any proceedings initiated by a public agency.

Amended by Chapter 261, 2021 General Session

78A-6-211 Courtrooms -- Physical facilities.

- (1) Suitable courtrooms and office space in each county shall be provided or made available to the juvenile court by the county for the hearing of cases, except in counties where the state has provided courtrooms and offices as needed.
- (2) Equipment and supplies for the use of the judges, officers, and employees of the juvenile court and the cost of maintaining the juvenile courts shall be paid from the General Fund or other funds for those purposes.

Amended by Chapter 261, 2021 General Session

78A-6-212 Information supplied to the Division of Juvenile Justice Services.

- (1) A juvenile probation officer shall render full and complete cooperation to the Division of Juvenile Justice Services in supplying the Division of Juvenile Justice Services with all pertinent information relating to a juvenile offender committed to the Division of Juvenile Justice Services.
- (2) Information under Subsection (1) includes prior criminal history, social history, psychological evaluations, and identifying information specified by the Division of Juvenile Justice Services.

Renumbered and Amended by Chapter 261, 2021 General Session

**Part 3a
Juvenile Court Proceedings**

78A-6-350 Venue -- Dismissal without adjudication on merits.

- (1) Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, a proceeding for a minor's case in the juvenile court shall be commenced in the court of the district in which:
 - (a) for a proceeding under Title 80, Chapter 6, Juvenile Justice:

- (i) the minor is living or found; or
 - (ii) the alleged offense occurred; or
 - (b) for all other proceedings, the minor is living or found.
- (2) If a party seeks to transfer a case to another district after a petition has been filed in the juvenile court, the juvenile court may transfer the case in accordance with the Utah Rules of Juvenile Procedure.
- (3) The dismissal of a petition in one district where the dismissal is without prejudice and where there has been no adjudication upon the merits may not preclude refiling within the same district or another district where there is venue for the case.

Renumbered and Amended by Chapter 261, 2021 General Session

78A-6-351 Summons -- Service and process -- Issuance and contents -- Notice to absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory process for attendance of witnesses when authorized.

- (1)
- (a) After a petition is filed in the juvenile court, the juvenile court shall promptly issue a summons, unless the juvenile court directs that a further investigation is needed.
 - (b) A summons is not required for a person who:
 - (i) appears voluntarily; or
 - (ii) files a written waiver of service with the clerk of the court at or before the hearing.
- (2) A summons under Subsection (1)(a) shall contain:
- (a) the name of the court;
 - (b) the title of the proceedings; and
 - (c) except for a published summons, a brief statement of the substance of the allegations in the petition.
- (3) A published summons shall state:
- (a) that a proceeding concerning the minor is pending in the court; and
 - (b) an adjudication will be made.
- (4)
- (a) The summons shall require:
 - (i) a minor to appear personally in the juvenile court at a time and place stated; or
 - (ii) if a person who has physical custody of the minor, for the person to:
 - (A) appear personally; and
 - (B) bring the minor before the court at a time and place stated.
 - (b) If the minor is a child and a person summoned is not the parent or guardian of the minor, the juvenile court shall issue the summons to the minor's parent or guardian, as the case may be, notifying the parent or guardian of the pendency of the case and of the time and place set for the hearing.
- (5) A summons may be issued requiring the appearance of any other person whose presence the juvenile court finds necessary.
- (6) If it appears to the juvenile court that the welfare of the minor or of the public requires that the minor be taken into temporary custody under Section 80-6-201 or protective custody under Section 62A-4a-202.1, and it does not conflict with Section 80-6-202, the court may by endorsement upon the summons direct that the person serving the summons take the minor into custody at once.
- (7)

- (a) Upon the sworn testimony of one or more reputable physicians, the juvenile court may order emergency medical or surgical treatment that is immediately necessary for a minor for whom a petition has been filed pending the service of summons upon the minor's parent, guardian, or custodian.
- (b) If the juvenile court orders emergency medical or surgical treatment:
 - (i) if a petition for delinquency has been filed under Section 80-6-305, Subsection 80-6-706(4) shall apply to the juvenile court's decision to order treatment;
 - (ii) if a petition has been filed under Section 80-3-201, Subsection 80-3-109(3) shall apply to the juvenile court's decision to order treatment; or
 - (iii) if a petition has been filed under Section 80-4-201, Subsection 80-4-108(4) shall apply to the juvenile court's decision to order treatment.
- (8)
 - (a) A minor is entitled to the issuance of compulsory process for the attendance of witnesses on the minor's own behalf.
 - (b) A minor's parent or guardian is entitled to the issuance of compulsory process for the attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor.
 - (c) A guardian ad litem or a juvenile probation officer is entitled to compulsory process for the attendance of witnesses on behalf of the minor.
- (9) Service of summons and process and proof of service shall be made in the manner provided in the Utah Rules of Juvenile Procedure.
- (10)
 - (a) Service of summons or process shall be made by the sheriff of the county where the service is to be made, or by the sheriff's deputy.
 - (b) Notwithstanding Subsection (10)(a), upon request of the juvenile court, service shall be made by any other peace officer or by another suitable person selected by the court.
- (11) Service of summons in the state shall be made personally, by delivering a copy to the person summoned, except that the parents of a child living together at the parents' usual place of abode may both be served by personal delivery with one copy of the summons for each parent.
- (12)
 - (a) If the juvenile court makes a written finding that the juvenile court has reason to believe that personal service of the summons will be unsuccessful, or will not accomplish notification within a reasonable time after issuance of the summons, the juvenile court may order service by registered mail, with a return receipt to be signed by the addressee only, to be addressed to the last-known address of the person to be served in the state.
 - (b) Service is complete upon return to the juvenile court of the signed receipt.
- (13)
 - (a) If the child's parent or guardian required to be summoned under Subsection (4) cannot be found within the state, the fact of the child's presence within the state shall confer jurisdiction on the juvenile court in proceedings in a child's case under this title as to any absent parent or guardian when:
 - (i) if the address of the parent or guardian is known, due notice is given by sending the parent or guardian a copy of the summons by registered mail with a return receipt to be signed by the addressee only, or by personal service outside the state, as provided in the Utah Rules of Juvenile Procedure; or
 - (ii) if the address or whereabouts of the parent or guardian outside the state cannot after diligent inquiry be ascertained, due notice is given by publishing a summons:
 - (A) in a newspaper having general circulation in the county in which the proceeding is pending once a week for four successive weeks; or

(B) in accordance with Section 45-1-101 for four weeks.

(b)

(i) If service is by registered mail under Subsection (13)(a)(i), service is complete upon return to the juvenile court of the signed receipt.

(ii) If service is by publication under Subsection (13)(a)(ii), service is complete on the day of the last publication.

(c) Service of summons as provided in this Subsection (13) shall vest the court with jurisdiction over the parent or guardian served in the same manner and to the same extent as if the person served was served personally within the state.

(14)

(a) In the case of service in the state, service completed not less than 48 hours before the time set in the summons for the appearance of the person served, shall be sufficient to confer jurisdiction.

(b) In the case of service outside the state, service completed not less than five days before the time set in the summons for appearance of the person served, shall be sufficient to confer jurisdiction.

(15) Computation of periods of time under this chapter and Title 80, Utah Juvenile Code, shall be made in accordance with Utah Rules of Juvenile Procedure, Rule 4.

Amended by Chapter 231, 2021 General Session

Renumbered and Amended by Chapter 261, 2021 General Session

78A-6-352 Appearances -- Parents, guardian, or custodian to appear with minor or child -- Failure to appear -- Warrant of arrest, when authorized -- Parent's, guardian's, or custodian's employer to grant time off -- Appointment of guardian ad litem.

(1) If a person is required to appear in a proceeding in the juvenile court and the person fails, without reasonable cause, to appear before the juvenile court, the juvenile court may issue a bench warrant to produce the person in court.

(2) If a child is required to appear in juvenile court, the child's parent, guardian, or custodian shall appear with the child in the juvenile court, unless the child's parent, guardian, or custodian is excused by the juvenile court.

(3)

(a) A child's parent, guardian, or custodian may request permission from the parent's, guardian's, or custodian's employer to leave the workplace for the purpose of attending court if the parent, guardian, or custodian is notified by the juvenile court that the child is required to appear before the court.

(b) An employer must grant the parent, guardian, or custodian permission to leave the workplace with or without pay if the parent, guardian, or custodian requests permission at least seven days in advance or within 24 hours of the parent, guardian, or custodian receiving notice of the hearing.

(4)

(a) If a parent, guardian, custodian or other person to whom a child is released, signed a written promise to appear and bring the child to juvenile court under Section 80-6-203 and fails to appear and bring the child to the juvenile court on the date set in the promise or, if the date was to be set, after notification by the juvenile court, a warrant may be issued for the apprehension of the parent, guardian, custodian, or other person.

(b) A willful failure to perform the promise described in Subsection (4)(a) is a class B misdemeanor if, at the time of the execution of the promise, the promisor is given a copy of

the promise that clearly states a failure to appear and have the child appear as promised is a class B misdemeanor.

- (5)
 - (a) A juvenile court shall make every effort to ensure the presence of the parent, guardian, or custodian of a child at all hearings through the use of a warrant of arrest, if necessary, or by other means.
 - (b) A juvenile court may appoint a guardian ad litem whenever necessary for the welfare of a child, regardless of whether the child's parent or guardian is present at the juvenile court proceedings.
- (6) A juvenile court may issue a warrant for a child's parent, guardian, or custodian if:
 - (a) a summons is issued but cannot be served;
 - (b) it appears to the juvenile court that the person to be served will not obey the summons; or
 - (c) serving the summons will be ineffectual.

Renumbered and Amended by Chapter 261, 2021 General Session

78A-6-353 Contempt -- Penalty -- Enforcement of fine, fee, or restitution.

- (1) An individual who willfully violates or refuses to obey any order of the juvenile court may be proceeded against for contempt of court.
- (2) If a juvenile court finds an individual who is 18 years old or older in contempt of court, the juvenile court may impose sanctions on the individual in accordance with Title 78B, Chapter 6, Part 3, Contempt.
- (3)
 - (a) Except as otherwise provided in this Subsection (3), if a juvenile court finds a child in contempt of court, the juvenile court may:
 - (i) place the child on probation in accordance with Section 80-6-702;
 - (ii) order the child to detention, or an alternative to detention, in accordance with Section 80-6-704; or
 - (iii) require the child to pay a fine or fee in accordance with Section 80-6-709.
 - (b) The juvenile court may only order a child to secure detention under Subsection (3)(a)(ii) for no longer than 72 hours, excluding weekends and legal holidays.
 - (c) The juvenile court may not suspend all or part of an order to secure detention upon compliance with conditions imposed by the juvenile court.
 - (d) The juvenile court may not enforce a disposition under Subsection (3)(a)(iii) through an order for detention, a community-based program, or secure care.
- (4) On the sole basis of a child's absence from placement, a juvenile court may not hold a child in contempt under this section if the child:
 - (a) is in the legal custody of the Division of Child and Family Services; and
 - (b) is missing, has been abducted, or has run away.

Renumbered and Amended by Chapter 261, 2021 General Session

78A-6-354 Hearings -- Minors cases heard separately from adult cases -- Minor or parents or custodian heard separately -- Continuance of hearing.

- (1) A hearing for a minor's case shall be held before the juvenile court without a jury and may be conducted in an informal manner.
- (2)

- (a) A minor's case under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Chapter 4, Termination and Restoration of Parental Rights, and Chapter 6, Juvenile Justice, shall be heard separately from any adult case.
- (b) The minor or the minor's parent or guardian may be heard separately when considered necessary by the juvenile court.
- (c) A hearing may be continued to a date specified by court order.

Renumbered and Amended by Chapter 261, 2021 General Session

78A-6-355 Exchange of information with agency or institution having legal custody.

- (1) If legal custody of a minor is vested in an institution or agency, the juvenile court shall transmit, with the court order, copies of the social study, any clinical reports, and other information pertinent to the care and treatment of the minor to the institution or agency with legal custody of the minor.
- (2) The institution or agency shall give the juvenile court any information concerning the minor that the juvenile court may at any time require.

Renumbered and Amended by Chapter 261, 2021 General Session

78A-6-356 Child support obligation when custody of a child is vested in an individual or institution.

- (1) As used in this section:
 - (a) "Office" means the Office of Recovery Services.
 - (b) "State custody" means that a child is in the custody of a state department, division, or agency, including secure care.
- (2) Under this section, a juvenile court may not issue a child support order against an individual unless:
 - (a) the individual is served with notice that specifies the date and time of a hearing to determine the financial support of a specified child;
 - (b) the individual makes a voluntary appearance; or
 - (c) the individual submits a waiver of service.
- (3) Except as provided in Subsection (11), when a juvenile court places a child in state custody or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the juvenile court:
 - (a) shall order the child's parent, guardian, or other obligated individual to pay child support for each month the child is in state custody or cared for under a grant of guardianship;
 - (b) shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and
 - (c) may refer the establishment of a child support order to the office.
- (4) When a juvenile court chooses to refer a case to the office to determine support obligation amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the juvenile court shall:
 - (a) make the referral within three working days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and
 - (b) inform the child's parent, guardian, or other obligated individual of:
 - (i) the requirement to contact the office within 30 days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

- (ii) the penalty described in Subsection (6) for failure to contact the office.
- (5) Liability for child support ordered under Subsection (3) shall accrue:
 - (a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which the juvenile court holds the hearing described in Subsection (2)(a) if there is no existing child support order for the child; or
 - (b) beginning on the day the child is removed from the child's home, including time spent in detention or sheltered care, if the child is removed after having been returned to the child's home from state custody.
- (6)
 - (a) If the child's parent, guardian, or other obligated individual contacts the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a), the child support order may not include a judgment for past due support for more than two months.
 - (b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the liability of support to begin to accrue from the date of the proceeding referenced in Subsection (3) if:
 - (i) the court informs the child's parent, guardian, or other obligated individual, as described in Subsection (4)(b), and the parent, guardian, or other obligated individual fails to contact the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a); and
 - (ii) the office took reasonable steps under the circumstances to contact the child's parent, guardian, or other obligated individual within 30 days after the last day on which the parent, guardian, or other obligated individual was required to contact the office to facilitate the establishment of a child support order.
 - (c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken reasonable steps if the office:
 - (i) has a signed, returned receipt for a certified letter mailed to the address of the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established; or
 - (ii) has had a documented conversation, whether by telephone or in person, with the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established.
- (7) In collecting arrears, the office shall comply with Section 62A-11-320 in setting a payment schedule or demanding payment in full.
- (8)
 - (a) Unless a court orders otherwise, the child's parent, guardian, or other obligated individual shall pay the child support to the office.
 - (b) The clerk of the juvenile court, the office, or the Department of Human Services and the department's divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as social security payments or railroad retirement payments made in the name of or for the benefit of the child.
- (9) An existing child support order payable to a parent or other individual shall be assigned to the Department of Human Services as provided in Section 62A-1-117.
- (10)
 - (a) Subsections (4) through (9) do not apply if legal custody of a child is vested by the juvenile court in an individual.
 - (b)
 - (i) If legal custody of a child is vested by the juvenile court in an individual, the court may order the child's parent, guardian, or other obligated individual to pay child support to the individual in whom custody is vested.

- (ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.
- (11) The juvenile court may not order an individual to pay child support for a child in state custody if:
- (a) the individual's only form of income is a government-issued disability benefit;
 - (b) the benefit described in Subsection (11)(a) is issued because of the individual's disability, and not the child's disability; and
 - (c) the individual provides the juvenile court and the office evidence that the individual meets the requirements of Subsections (11)(a) and (b).
- (12) After the juvenile court or the office establishes an individual's child support obligation ordered under Subsection (3), the office shall waive the obligation without further order of the juvenile court if:
- (a) the individual's child support obligation is established under Subsection 78B-12-205(6) or Section 78B-12-302; or
 - (b) the individual's only source of income is a means-tested, income replacement payment of aid, including:
 - (i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program; or
 - (ii) cash benefits received under General Assistance, social security income, or social security disability income.

Renumbered and Amended by Chapter 261, 2021 General Session

78A-6-357 New hearings -- Modification of order or decree -- Requirements for changing or terminating custody, probation, or protective supervision.

- (1) If a party seeks a new hearing after an adjudication under Title 80, Utah Juvenile Code, Utah Rules of Juvenile Procedure, Rule 48, shall govern the matter of granting a new hearing.
- (2)
- (a) Except as provided in Subsection (3), a juvenile court may modify or set aside any order or decree made by the juvenile court.
 - (b) A modification of an order placing a minor on probation may not:
 - (i) include an order under Section 80-3-405, 80-6-703, 80-6-704, or 80-6-705; or
 - (ii) extend supervision over a minor, except in accordance with Section 80-6-712.
- (3)
- (a) A parent or guardian of a child whose legal custody has been transferred by the juvenile court to an individual, agency, or institution may petition the juvenile court for restoration of custody or other modification or revocation of the juvenile court's order or decree, except as provided in Subsections (3)(b), (c), and (d) and for a transfer of legal custody for secure care.
 - (b) A parent or guardian may only petition the juvenile court under Subsection (3)(a) on the ground that a change of circumstances has occurred that requires modification or revocation in the best interest of the child or the public.
 - (c) A parent may not file a petition after the parent's parental rights have been terminated in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights.
 - (d) A parent may not file a petition for restoration of custody under this section during the existence of a permanent guardianship established for the child under Subsection 80-3-405(2)(d).
- (4)

- (a) An individual, agency, or institution vested with legal custody of a child may petition the juvenile court for a modification of the custody order on the ground that the change is necessary for the welfare of the child or in the public interest.
- (b) The juvenile court shall proceed upon the petition in accordance with this section.
- (5) Notice of hearing is required in any case in which the effect of modifying or setting aside an order or decree may be to make any change in the minor's legal custody under Section 80-3-405 or 80-6-703.
- (6)
 - (a) Upon the filing of a petition under Subsection (3)(a), the juvenile court shall make a preliminary investigation.
 - (b) After the preliminary investigation described in Subsection (6)(a), the juvenile court:
 - (i) may dismiss the petition if the juvenile court finds the alleged change of circumstances, if proved, would not affect the decree; or
 - (ii) shall conduct a hearing, if the juvenile court finds that further examination of the facts is needed, or if the juvenile court on the juvenile court's own motion determines that the juvenile court's order or decree should be reviewed.
 - (c) Notice of the hearing described in Subsection (6)(b)(ii) shall be given to all interested persons.
 - (d) At a hearing under Subsection (6)(b)(ii), the juvenile court may enter an order continuing, modifying, or terminating the juvenile court's order or decree.
- (7) Notice of an order terminating probation or protective supervision of a child shall be given to the child's:
 - (a) parent;
 - (b) guardian;
 - (c) custodian; and
 - (d) where appropriate, to the child.
- (8) Notice of an order terminating probation or protective supervision of a minor who is at least 18 years old shall be given to the minor.

Enacted by Chapter 261, 2021 General Session

78A-6-358 Period of effect for a judgment , decree, or order by a juvenile court.

- (1) A judgment, order, or decree of the juvenile court is no longer in effect after a minor is 21 years old, except:
 - (a) for an order of commitment to the Utah State Developmental Center or to the custody of the Division of Substance Abuse and Mental Health;
 - (b) for an adoption under Subsection 78A-6-103(2)(n);
 - (c) for an order permanently terminating the rights of a parent, guardian, or custodian under Title 80, Chapter 4, Termination and Restoration of Parental Rights;
 - (d) for a permanent order of custody and guardianship under Subsection 80-3-405(2)(d);
 - (e) an order establishing paternity under Subsection 78A-6-104(1)(a)(i); and
 - (f) as provided in Subsection (2).
- (2) If the juvenile court enters a judgment or order for a minor for whom the juvenile court has extended continuing jurisdiction over the minor's case until the minor is 25 years old under Section 80-6-605, the juvenile court's judgment or order is no longer in effect after the minor is 25 years old.

Renumbered and Amended by Chapter 261, 2021 General Session

78A-6-359 Appeals.

- (1) An appeal to the Court of Appeals may be taken from any order, decree, or judgment of the juvenile court.
- (2)
 - (a) An appeal of right from an order, decree, or judgment by a juvenile court related to a proceeding under Title 78B, Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Title 80, Chapter 4, Termination and Restoration of Parental Rights, shall be filed within 15 days after the day on which the juvenile court enters the order, decree, or judgment.
 - (b) A notice of appeal must be signed by appellant's counsel, if any, and by appellant, unless the appellant is a child or state agency.
 - (c) If an appellant fails to timely sign a notice of appeal, the appeal shall be dismissed.
- (3) An order for a disposition from the juvenile court shall include the following information:
 - (a) notice that the right to appeal described in Subsection (2)(a) is time sensitive and must be taken within 15 days after the day on which the juvenile court enters the order, decree, or judgment appealed from;
 - (b) the right to appeal within the specified time limits;
 - (c) the need for the signature of the parties on a notice of appeal in an appeal described in Subsection (2)(a); and
 - (d) the need for parties to maintain regular contact with the parties' counsel and to keep all other parties and the appellate court informed of the parties' whereabouts.
- (4) If the parties are not present in the courtroom, the juvenile court shall provide a statement containing the information provided in Subsection (3) to the parties at the parties' last known address.
- (5)
 - (a) The juvenile court shall inform the parties' counsel at the conclusion of the proceedings that, if an appeal is filed, the parties' counsel must represent the parties throughout the appellate process unless relieved of that obligation by the juvenile court upon a showing of extraordinary circumstances.
 - (b)
 - (i) Until the petition on appeal is filed, claims of ineffective assistance of counsel do not constitute extraordinary circumstances.
 - (ii) If a claim is raised by trial counsel or a party, the claim must be included in the petition on appeal.
- (6) During the pendency of an appeal under Subsection (2)(a), parties shall maintain regular contact with the parties' counsel, if any, and keep all other parties and the appellate court informed of the parties' whereabouts.
- (7)
 - (a) In all other appeals of right, the appeal shall be taken within 30 days after the day on which the juvenile court enters the order, decree, or judgment.
 - (b) A notice of appeal under Subsection (7)(a) must be signed by appellant's counsel, if any, or by appellant.
- (8) The attorney general shall represent the state in all appeals under this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Chapter 4, Termination and Restoration of Parental Rights, and Chapter 6, Juvenile Justice.
- (9) Unless the juvenile court stays the juvenile court's order, the pendency of an appeal does not stay the order or decree appealed from in a minor's case, unless otherwise ordered by the

Court of Appeals, if suitable provision for the care and custody of the minor involved is made pending the appeal.

- (10) Access to the record on appeal is governed by Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 261, 2021 General Session

Part 4a Adult Criminal Proceedings

78A-6-450 Criminal information for an adult in juvenile court.

A county attorney or district attorney may file a criminal information in the juvenile court charging an adult for:

- (1) unlawful sale or furnishing of an alcoholic product to minors in violation of Section 32B-4-403;
- (2) failure to report abuse or neglect in violation of Section 62A-4a-411;
- (3) harboring a runaway in violation of Section 80-5-601;
- (4) misdemeanor custodial interference in violation of Section 76-5-303;
- (5) contributing to the delinquency of a minor in violation of Section 76-10-2301;
- (6) failure to comply with compulsory education requirements in violation of Section 53G-6-202; or
- (7) a willful failure to perform a promise to appear under Subsection 78A-6-352(4)(b).

Renumbered and Amended by Chapter 261, 2021 General Session

78A-6-451 Who may prosecute an adult in juvenile court -- Transfer to district court.

- (1) The county attorney or district attorney, as provided in Title 17, Chapter 18a, Powers and Duties of County and District Attorney, shall prosecute any case brought under this part.
- (2) Any proceeding under this part is governed by the statutes and rules governing criminal proceedings in the district court, except the juvenile court may, on stipulation of the parties, transfer the case to the district court.

Renumbered and Amended by Chapter 261, 2021 General Session

78A-6-452 Costs and expenses of trial.

- (1) Except as provided in Subsection (2), the state shall pay, when approved by the court, the cost of publication of a summons, the expense of a trial, and any other fee or expense of a trial of an adult under this part.
- (2) The county where the hearing or trial is held shall pay the prosecution costs and public defender costs.

Renumbered and Amended by Chapter 261, 2021 General Session

Chapter 7 Justice Court

Part 1
Creation, Jurisdiction, and Procedure

78A-7-101 Creation of justice court -- Not of record -- Classes of justice.

- (1) Under Article VIII, Section 1, Utah Constitution, there is created a court not of record known as the justice court. The judges of this court are justice court judges.
- (2) Justice courts shall be divided into the following classes:
 - (a) Class I: 501 or more case filings per month;
 - (b) Class II: 201-500 case filings per month;
 - (c) Class III: 61-200 case filings per month; and
 - (d) Class IV: 60 or fewer case filings per month.

Amended by Chapter 205, 2012 General Session

78A-7-102 Establishment of justice courts.

- (1)
 - (a) As used in this section, to "create a justice court" means to:
 - (i) establish a justice court; or
 - (ii) establish a justice court under Title 11, Chapter 13, Interlocal Cooperation Act.
 - (b) For the purposes of this section, if more than one municipality or county is collectively proposing to create a justice court, the class of the justice court shall be determined by the total citations or cases filed within the territorial jurisdiction of the proposed justice court.
- (2) A municipality or county of the first or second class may create a justice court by filing a written declaration with the Judicial Council on or before July 1 at least two years before the effective date of the election. Upon demonstration of compliance with operating standards as established by statute and the Judicial Council, the Judicial Council shall certify the creation of the justice court under Section 78A-7-103.
- (3)
 - (a) A municipality or county of the third, fourth, or fifth class may create a justice court by demonstrating the need for the justice court and filing a written declaration with the Judicial Council on or before July 1 at least one year before the effective date of the election.
 - (b) A municipality or county creating a justice court shall demonstrate to the Judicial Council that a justice court is needed. In evaluating the need for a justice court, the Judicial Council shall consider factors of population, case filings, public convenience, availability of law enforcement agencies and court support services, proximity to other courts, and any special circumstances.
 - (c) The Judicial Council shall certify the creation of the justice court under Section 78A-7-103, if the Judicial Council determines:
 - (i) a need exists;
 - (ii) the municipality or county has filed a timely application; and
 - (iii) the proposed justice court will be in compliance with all of the operating standards established by statute and the Judicial Council.
- (4)
 - (a) A municipality that has a justice court may expand the territorial jurisdiction of the justice court by entering into an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more other municipalities, or the county in which the municipality exists.

- (b) A justice court enlarged under this Subsection (4) may not be considered as creating a new justice court. An expanded justice court shall demonstrate that it will be in compliance with all of the requirements of the operating standards as established by statute and the Judicial Council before the justice court expands.
- (c) A municipality or county seeking to expand the territorial jurisdiction of a justice court shall notify the Judicial Council:
 - (i) no later than the notice period required in Section 78A-7-123, when the expanded justice court is a result of the dissolution of one or more justice courts; or
 - (ii) no later than 180 days before the expanded court seeks to begin operation when the expanded justice court is a result of other circumstances.
- (d) The Judicial Council shall certify the expansion of a justice court if it determines that the expanded justice court is in compliance with the operating standards established by statute and the Judicial Council.
- (e)
 - (i) A municipality or county that has a justice court at the time of executing an interlocal agreement, under Title 11, Chapter 13, Interlocal Cooperation Act, to become part of an expanded court shall resume operation of the justice court upon termination of the interlocal agreement in accordance with this Subsection (4)(e) or dissolve its justice courts in accordance with Subsection (4)(e)(iii).
 - (ii) The municipality or county shall notify the Judicial Council at least 90 days before resuming operations. The municipality or county shall demonstrate that the municipality's or county's justice court will be in compliance with the operating standards.
 - (iii) If the Judicial Council determines that a justice court will not be in compliance with the operating standards, the Judicial Council shall direct the expanded justice court to continue operation until the Judicial Council is satisfied the municipality's or county's justice court will meet the operating standards or until the municipality or county dissolves the municipality's or county's justice court in accordance with Section 78A-7-123.
 - (iv) If the interlocal agreement includes a municipality or county that did not have a justice court at the time the interlocal agreement was executed, the municipality or county shall notify the Judicial Council at least 180 days before termination of the interlocal agreement. In the notification, the municipality or county shall set forth its intentions in regard to adjudicating offenses committed within the municipality's or county's territorial boundaries. The Judicial Council may require the expanded justice court to continue operation until the Judicial Council is satisfied that the municipality's or county's caseload will be adequately subsumed by another justice court.
- (5) Upon request from a municipality or county seeking to create a justice court, the Judicial Council may shorten the time required between the municipality's or county's written declaration or election to create a justice court and the effective date of the election.
- (6) The Judicial Council may by rule provide resources and procedures adequate for the timely disposition of all matters brought before the courts. The Administrative Office of the Courts and local governments shall cooperate in allocating resources to operate the courts in the most efficient and effective manner based on the allocation of responsibility between courts of record and not of record.

Amended by Chapter 30, 2018 General Session

78A-7-103 Minimum standards of justice courts -- Authority of Judicial Council over justice courts.

The Judicial Council shall ensure that:

- (1) procedures include requirements that every municipality or county that establishes or maintains a justice court provide for the following minimum operating standards:
 - (a) a system to ensure the justice court records all proceedings with a digital audio recording device and maintains the audio recordings for a minimum of one year;
 - (b) sufficient prosecutors to perform the prosecutorial duties before the justice court;
 - (c) adequate funding to provide indigent defense services for indigent individuals under Title 78B, Chapter 22, Indigent Defense Act;
 - (d) sufficient local peace officers to provide security for the justice court and to attend to the justice court when required;
 - (e) sufficient clerical personnel to serve the needs of the justice court;
 - (f) sufficient funds to cover the cost of travel and training expenses of clerical personnel and judges at training sessions mandated by the Judicial Council;
 - (g) adequate courtroom and auxiliary space for the justice court, which need not be specifically constructed for or allocated solely for the justice court when existing facilities adequately serve the purposes of the justice court; and
 - (h) for each judge of its justice court, a current copy of the Utah Code, the Utah Court Rules Annotated, the justice court manual published by the state court administrator, the county, city, or town ordinances as appropriate, and other legal reference materials as determined to be necessary by the judge; and
- (2) the Judicial Council's rules and procedures shall:
 - (a) presume that existing justice courts will be recertified at the end of each four-year term if the court continues to meet the minimum requirements for the establishment of a new justice court; or
 - (b) authorize the Judicial Council, upon request of a municipality or county or upon its own review, when a justice court does not meet the minimum requirements, to:
 - (i) decline recertification of a justice court;
 - (ii) revoke the certification of a justice court;
 - (iii) extend the time for a justice court to comply with the minimum requirements; or
 - (iv) suspend rules of the Judicial Council governing justice courts, if the council believes suspending those rules is the appropriate administrative remedy for the justice courts of this state.

Amended by Chapter 326, 2019 General Session

78A-7-105 Territorial jurisdiction -- Voting.

- (1)
 - (a) The territorial jurisdiction of county justice courts extends to the limits of the precinct for which the justice court is created and includes all cities or towns within the precinct, other than cities where a municipal justice court exists.
 - (b) A county or district attorney may file a class B or C misdemeanor offense in a county justice court, regardless of where the act occurred, if:
 - (i) the same offense could have been filed as a class A misdemeanor in district court;
 - (ii) statute provides that an attempt to commit the offense described in Subsection (1)(b)(i) is a class B or class C misdemeanor; and
 - (iii) the case was submitted to the county or district attorney's office for prosecution.

- (c) Notwithstanding Subsection (1)(a), the territorial jurisdiction of a county justice court extends to the place where the act, filed as a class B or C misdemeanor under Subsection (1)(b), occurred.
- (2) The territorial jurisdiction of municipal justice courts extends to the corporate limits of the municipality in which the justice court is created.
- (3) Justice court judges have the same authority regarding matters within their jurisdiction as judges of courts of record.
- (4) A justice court may issue all extraordinary writs and other writs as necessary to carry into effect its orders, judgments, and decrees.
- (5)
 - (a) Except as provided in this Subsection (5), a judgment rendered in a justice court does not create a lien upon any real property of the judgment debtor unless the judgment or abstract of the judgment:
 - (i) is recorded in the office of the county recorder of the county in which the real property of the judgment debtor is located; and
 - (ii) contains the information identifying the judgment debtor in the judgment or abstract of judgment as required in Subsection 78B-5-201(4)(b) or as a separate information statement of the judgment creditor as required in Subsection 78B-5-201(5).
 - (b) The lien runs for eight years from the date the judgment was entered in the district court under Section 78B-5-202 unless the judgment is earlier satisfied.
 - (c) State agencies are exempt from the recording requirement of Subsection (5)(a).

Amended by Chapter 317, 2020 General Session

78A-7-106 Jurisdiction.

- (1) Except as otherwise provided by Subsection 78A-5-102(8), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.
- (2) Except for an offense for which the juvenile court or the district court has exclusive jurisdiction under Subsection 78A-5-102(10) or Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:
 - (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and
 - (b) class B and C misdemeanor and infraction violations of:
 - (i) Title 23, Wildlife Resources Code of Utah;
 - (ii) Title 41, Chapter 1a, Motor Vehicle Act;
 - (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving ;
 - (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;
 - (v) Title 41, Chapter 22, Off-Highway Vehicles;
 - (vi) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;
 - (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
 - (viii) Title 73, Chapter 18b, Water Safety; and
 - (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.
- (3) An offense is committed within the territorial jurisdiction of a justice court if:

- (a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;
 - (b) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;
 - (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;
 - (d) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;
 - (e) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;
 - (f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:
 - (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;
 - (ii)
 - (A) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; and
 - (B) as used in Subsection (3)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;
 - (iii) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or
 - (iv) the offense is committed on or near the boundary of the court's jurisdiction;
 - (g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or
 - (h) jurisdiction is otherwise specifically provided by law.
- (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.
- (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

Amended by Chapter 262, 2021 General Session

78A-7-118 Appeals from justice court -- Trial or hearing de novo in district court.

- (1) In a criminal case, a defendant is entitled to a trial de novo in the district court only if the defendant files a notice of appeal within 28 days of:
 - (a) sentencing, except as provided in Subsection (4)(b); or
 - (b) a plea of guilty or no contest in the justice court that is held in abeyance.
- (2) Upon filing a proper notice of appeal, any term of a sentence imposed by the justice court shall be stayed as provided for in Section 77-20-302 and the Rules of Criminal Procedure.
- (3) If an appeal under Subsection (1) is of a plea entered pursuant to negotiation with the prosecutor, and the defendant did not reserve the right to appeal as part of the plea negotiation, the negotiation is voided by the appeal.
- (4) A defendant convicted and sentenced in justice court is entitled to a hearing de novo in the district court on the following matters, if the defendant files a notice of appeal within 28 days of:

- (a) an order revoking probation;
 - (b) imposition of a sentence, following a determination that a defendant failed to fulfill the terms of a plea in abeyance agreement;
 - (c) an order denying a motion to withdraw a plea, if the plea is being held in abeyance and the motion to withdraw the plea is filed within 28 days of the entry of the plea;
 - (d) a postsentence order fixing total or court ordered restitution; or
 - (e) an order denying expungement.
- (5) The prosecutor is entitled to a hearing de novo in the district court if an appeal is filed within 28 days of the court entering:
- (a) a final judgment of dismissal;
 - (b) an order arresting judgment;
 - (c) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;
 - (d) a judgment holding invalid any part of a statute or ordinance;
 - (e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence prevents continued prosecution of an infraction or class C misdemeanor;
 - (f) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence impairs continued prosecution of a class B misdemeanor;
 - (g) an order granting a motion to withdraw a plea of guilty or no contest;
 - (h) an order fixing total restitution at an amount less than requested by a crime victim; or
 - (i) an order granting an expungement, if the expungement was opposed by the prosecution or a victim before the order was entered.
- (6) Upon entering a decision in a hearing de novo, the district court shall remand the case to the justice court unless:
- (a) the decision results in immediate dismissal of the case; or
 - (b) the hearing de novo was on a pretrial order and the parties and the district court agree to have the district court retain jurisdiction.
- (7) The district court shall retain jurisdiction over the case on trial de novo.
- (8) The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.

Amended by Chapter 4, 2021 Special Session 2

78A-7-120 Disposition of fines.

- (1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the court and 1/2 to the treasurer of the local government which prosecutes or which would prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section if the parties agree.
- (2)
- (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or county government responsible for the justice court.
 - (b) For violation of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Recreation and 15% to the general fund of the city or county government responsible for the justice court.

- (c) Fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310 shall be remitted:
 - (i) 20% to the school district or private school that owns or contracts for the use of the school bus; and
 - (ii) 80% in accordance with Subsection (1).
- (3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer and deposited into the General Fund.
- (4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and allocated to the Department of Transportation for class B and class C roads.
- (5) Revenue allocated for class B and class C roads pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.
- (6)
 - (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:
 - (i) 60% to the state treasurer to be deposited in the Transportation Fund; and
 - (ii) 40% in accordance with Subsection (1).
 - (b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:
 - (i) 50% to the state treasurer to be deposited in the Transportation Fund; and
 - (ii) 50% in accordance with Subsection (1).

Amended by Chapter 280, 2021 General Session

78A-7-121 Funds collected -- Deposits and reports -- Special account -- Accounting.

- (1)
 - (a) Justice courts shall deposit public funds in accordance with Section 51-4-2.
 - (b) The city or county treasurer shall report to the city recorder or county auditor, as appropriate, the sums collected and deposited. The recorder or auditor shall then apportion and remit the collected proceeds as provided in Section 78A-7-120.
- (2) Money received or collected on any civil process or order issued from a justice court shall be paid within seven days to the party entitled or authorized to receive it.
- (3)
 - (a) With the approval of the governing body a trust or revolving account may be established in the name of the justice court and the treasurer for the deposit of money collected including bail, restitution, unidentified receipts, and other money that requires special accounting.
 - (b) Disbursements from this account do not require the approval of the auditor, recorder, or governing body.
 - (c) The account shall be reconciled at least quarterly by the auditor of the governing body.

Amended by Chapter 205, 2012 General Session

78A-7-122 Security surcharge -- Application -- Deposit in restricted accounts.

- (1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of \$60 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations.
- (2) The security surcharge shall be collected and distributed pro rata with any fine collected. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.
- (3) Twenty-eight dollars of the security surcharge shall be remitted to the state treasurer and distributed to the Court Security Account created in Section 78A-2-602.
- (4) Thirty-two dollars of the security surcharge shall be allocated as follows:
 - (a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and
 - (b) 80% shall be remitted to the state treasurer to be distributed as follows:
 - (i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located;
 - (ii) 25% to the Court Security Account created in Section 78A-2-602; and
 - (iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78A-7-301.
- (5) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 230, 2020 General Session

78A-7-123 Dissolution of justice courts.

- (1)
 - (a) The county or municipality shall obtain legislative approval to dissolve a justice court if the caseload from that court would fall to the district court upon dissolution.
 - (b) To obtain approval of the Legislature, the governing authority of the municipality or county shall petition the Legislature to adopt a joint resolution to approve the dissolution.
 - (c) The municipality or county shall provide notice to the Judicial Council.
 - (d) Notice of intent to dissolve a Class I or Class II justice court to the Judicial Council shall be given not later than July 1 two years prior to the general session in which the county or municipality intends to seek legislative approval.
 - (e) Notice of intent to dissolve a Class III or Class IV justice court to the Judicial Council shall be given not later than July 1 immediately prior to the general session in which the county or municipality intends to seek legislative approval.
- (2)
 - (a) A county or municipality shall give notice of intent to dissolve a justice court to the Judicial Council if the caseload of that court would fall to the county justice court. A municipality shall also give notice to the county of its intent to dissolve a justice court.
 - (b) Notice of intent to dissolve a Class I or Class II court shall be given by July 1 at least two years prior to the effective date of the dissolution.
 - (c) Notice of intent to dissolve a Class III or Class IV court shall be given by July 1 at least one year prior to the effective date of the dissolution.
- (3) Upon request from a municipality or county seeking to dissolve a justice court, the Judicial Council may shorten the time required between the city's or county's notice of intent to dissolve a justice court and the effective date of the dissolution.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 2 Judges and Administration

78A-7-201 Justice court judge eligibility -- Mandatory retirement.

- (1) A justice court judge shall be:
 - (a) a citizen of the United States;
 - (b) 25 years of age or older;
 - (c) a resident of Utah for at least three years immediately preceding his appointment;
 - (d) a resident of the county in which the court is located or an adjacent county for at least six months immediately preceding appointment; and
 - (e) a qualified voter of the county in which the judge resides.
- (2) Effective May 10, 2016, a justice court judge is not required to be admitted to practice law in the state as a qualification to hold office but:
 - (a) in counties of the first and second class, a justice court judge shall have a degree from a law school that makes one eligible to apply for admission to a bar in any state; and
 - (b) in counties of the third, fourth, fifth, and sixth class, a justice court judge shall have at the minimum a diploma of graduation from high school or its equivalent.
- (3) A justice court judge shall be a person who has demonstrated maturity of judgment, integrity, and the ability to understand and apply appropriate law with impartiality.
- (4) A justice court judge shall retire upon attaining the age of 75 years.
- (5) In counties of the first and second class, if there are not at least three applicants for a justice court judge position who meet the requirements of Subsection (2)(a), the justice court nominating commission shall re-advertise the position, and may accept applications from persons who do not meet the requirements of Subsections (1)(d) and (2)(a).
- (6)
 - (a) In accordance with Subsection 78A-7-202(3), the Administrative Office of the Courts shall provide notice to all attorneys in the county and adjacent counties when a justice court judge position is vacant.
 - (b) If the justice court nominating commission waives the requirement of Subsection (1)(d) in accordance with Subsection (5), the Administrative Office of the Courts shall provide notice to all attorneys in the state.
- (7) A justice court judge holding office on May 10, 2016, who does not meet the qualification in Subsection (2)(a) may continue in the judge's position until the judge resigns, retires, is not retained in a retention election, or is removed from office.

Amended by Chapter 146, 2016 General Session

78A-7-202 Justice court judges to be appointed -- Procedure.

- (1) As used in this section:
 - (a) "Local government executive" means:
 - (i) for a county:
 - (A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;
 - (B) the county executive in a county operating under the county executive-council form of county government; and

- (C) the county manager in a county operating under the council-manager form of county government;
- (ii) for a city or town:
 - (A) the mayor of the city or town; or
 - (B) the city manager, in the council-manager form of government described in Subsection 10-3b-103(7); and
- (iii) for a metro township, the chair of the metro township council.
- (b) "Local legislative body" means:
 - (i) for a county, the county commission or county council; and
 - (ii) for a city or town, the council of the city or town.
- (2) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position. The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.
 - (a) Membership of the justice court nominating commission shall be as follows:
 - (i) one member appointed by:
 - (A) the county commission if the county has a county commission form of government; or
 - (B) the county executive if the county has an executive-council form of government;
 - (ii) one member appointed by the municipalities in the counties as follows:
 - (A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or
 - (B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality and the chairs of each metro township in the county;
 - (iii) one member appointed by the county bar association; and
 - (iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.
 - (b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be appointed by the regional bar association. If no regional bar association exists, the state bar association shall make the appointment.
 - (c) Members appointed under Subsections (2)(a)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.
 - (d) The nominating commission shall submit at least three names to the appointing authority of the jurisdiction expected to be served by the judge. The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.
 - (e) The state court administrator shall provide staff to the commission. The Judicial Council shall establish rules and procedures for the conduct of the commission.
- (3) Judicial vacancies shall be advertised in a newspaper of general circulation, through the Utah State Bar, on the Utah Public Notice Website, created in Section 63A-16-601, and through other appropriate means.
- (4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.
- (5) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council. Upon completion of the orientation program, the Judicial Council shall certify the justice court judge as qualified to hold office.

- (6) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council. A justice court judge may not perform judicial duties until certified by the Judicial Council.

Amended by Chapter 355, 2021 General Session

78A-7-203 Term of office for justice court judge -- Retention -- Reduction in force -- Addition of a justice court judge position.

- (1) The term of a justice court judge is six years beginning the first Monday in January following the date of election.
- (2) Upon the expiration of a justice court judge's term of office, the judge shall be subject to an unopposed retention election in accordance with the procedures set forth in Section 20A-12-201:
 - (a) in the county or counties in which the court to which the judge is appointed is located if the judge is a county justice court judge or a municipal justice court judge in a town or city of the fourth or fifth class; or
 - (b) in the municipality in which the court to which the judge is appointed is located if the judge is a municipal justice court judge and Subsection (2)(a) does not apply.
- (3) Before each retention election, each justice court judge shall be evaluated in accordance with the performance evaluation program established in Chapter 12, Judicial Performance Evaluation Commission Act.
- (4) A municipality or county that has more than one justice court judge and the weighted caseload per judge is lower than 0.60 as determined by the Administrative Office of the Courts may, at the municipality's or county's discretion and at the end of a judge's term of office, initiate a reduction in force and reduce, lay off, terminate, or eliminate a judge's position in accordance with the municipality's or county's employment policies.
- (5) A municipality or county may only add a new justice court judge position if the Judicial Council, after considering the caseload of the court, approves creation of the position.

Amended by Chapter 52, 2020 General Session

78A-7-204 Offices of justice court judges.

- (1) Justice court judges holding office in:
 - (a) county precincts are county justice court judges; and
 - (b) cities or towns are municipal justice court judges.
- (2) The county legislative body may establish a single precinct or divide the county into multiple precincts to create county justice courts for public convenience.
- (3)
 - (a) The governing body may create as many judicial positions as are required for the efficient administration of a justice court.
 - (b) If more than one judge is assigned to a court, all filings within that court shall be assigned to the judges at random unless the governing body has been authorized to create specialized judicial calendars to serve the interests of justice.

Amended by Chapter 205, 2012 General Session

78A-7-205 Required training -- Failure to attend.

- (1) A justice court judge shall meet the continuing education requirements of the Judicial Council.

- (2) Successful completion of the continuing education requirement includes instruction regarding competency and understanding of constitutional provisions and laws relating to the jurisdiction of the court, rules of evidence, and rules of civil and criminal procedure as indicated by a certificate awarded by the Judicial Council.
- (3) The Judicial Council shall file a formal complaint with the Judicial Conduct Commission against each justice court judge who does not comply with this section.

Amended by Chapter 429, 2019 General Session

78A-7-206 Determination of compensation and limits -- Salary survey -- Limits on secondary employment -- Prohibition on holding political or elected office -- Penalties.

- (1) Every justice court judge shall be paid a fixed compensation determined by the governing body of the respective municipality or county.
 - (a) The governing body of the municipality or county may not set a full-time justice court judge's salary at less than 50% nor more than 90% of a district court judge's salary.
 - (b) The governing body of the municipality or county shall set a part-time justice court judge's salary as follows:
 - (i) The governing body shall first determine the full-time salary range outlined in Subsection (1)(a).
 - (a).
 - (ii) The caseload of a part-time judge shall be determined by the office of the state court administrator and expressed as a percentage of the caseload of a full-time judge.
 - (iii) The judge's salary shall then be determined by applying the percentage determined in Subsection (1)(b)(ii) against the salary range determined in Subsection (1)(a).
 - (c) A justice court judge shall receive an annual salary adjustment at least equal to the average salary adjustment for all county or municipal employees for the jurisdiction served by the judge.
 - (d) Notwithstanding Subsection (1)(c), a justice court judge may not receive a salary greater than 90% of the salary of a district court judge.
 - (e) A justice court judge employed by more than one entity as a justice court judge may not receive a total salary for service as a justice court judge greater than the salary of a district court judge.
 - (2) A justice court judge may not appear as an attorney in any:
 - (a) justice court;
 - (b) criminal matter in any federal, state, or local court; or
 - (c) juvenile court case involving conduct which would be criminal if committed by an adult.
 - (3) A justice court judge may not hold any office or employment including contracting for services in any justice agency of state government or any political subdivision of the state including law enforcement, prosecution, criminal defense, corrections, or court employment.
 - (4) A justice court judge may not hold any office in any political party or organization engaged in any political activity or serve as an elected official in state government or any political subdivision of the state.
 - (5) A justice court judge may not own or be employed by any business entity which regularly litigates in small claims court.
 - (6) The Judicial Council shall file a formal complaint with the Judicial Conduct Commission for each violation of this section.

Amended by Chapter 205, 2012 General Session

78A-7-207 Compensation -- Annual review and adjustment.

- (1) The governing body of each municipality or county shall annually review and may adjust the compensation paid.
- (2) The salary fixed for a justice court judge may not be diminished during the term for which the judge has been appointed or elected.
- (3) A copy of the resolution, ordinance, or other document fixing the salary of the justice court judge and any adjustments to the document shall be furnished to the state court administrator by the governing body of the municipality or county.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-7-208 Temporary justice court judge.

When necessary, the governing body may appoint any senior justice court judge, or justice court judge currently holding office within the judicial district or in an adjacent county, to serve as a temporary justice court judge.

Amended by Chapter 205, 2012 General Session

78A-7-210 Justice court judge administrative responsibilities.

- (1) Justice court judges shall comply with and ensure that court personnel comply with applicable county or municipal rules and regulations related to personnel, budgets, and other administrative functions.
- (2) Failure by the judge to comply with applicable administrative county or municipal rules and regulations may be referred, by the county executive or municipal legislative body, to the state Justice Court Administrator.
- (3) Repeated or willful noncompliance may be referred, by the county executive or municipal legislative body, to the Judicial Conduct Commission.

Amended by Chapter 205, 2012 General Session

78A-7-212 Place of holding court.

- (1)
 - (a) County justice court judges may hold court in any municipality within the precinct but may exercise only the jurisdiction provided by law for county justice courts.
 - (b) County justice court judges may also, at the direction of the county legislative body, hold court anywhere in the county as needed but may only hear cases arising within the precinct.
- (2) A municipal justice court judge shall hold court in the municipality where the court is located and, as directed by the municipal governing body, at the county jail or municipal prison.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-7-213 Trial facilities -- Hours of business.

- (1) A justice court judge shall conduct all official court business in a courtroom or office located in a public facility which is conducive and appropriate to the administration of justice.
- (2)
 - (a) A county justice court may, at the direction of the county legislative body, hold justice court anywhere in the county as needed but may only hear cases arising within its precinct.
 - (b) A municipal justice court judge shall hold court in the municipality where the court is located.

- (c) Justice courts may also hold court or conduct hearings or court business in any facility or location authorized by rule of the Judicial Council.
- (3) Justice courts shall be open and judicial business shall be transacted:
 - (a) five days per week; or
 - (b) no less than four days per week for at least 11 hours per day.
- (4) The legislative body of the county, city, or town shall establish operating hours for the justice courts within the requirements of Subsection (3) and the code of judicial administration.
- (5) The hours the courts are open shall be posted conspicuously at the courts and in local public buildings.
- (6) The clerk of the court and judges of justice courts shall attend the court at regularly scheduled times.
- (7) By July 1, 2011, all justice courts shall use a common case management system and disposition reporting system as specified by the Judicial Council.

Amended by Chapter 205, 2012 General Session

78A-7-215 Monthly reports to court administrator and governing body.

- (1) Every justice court shall file monthly with the state court administrator a report of the judicial business of the judge. The report shall be on forms supplied by the state court administrator.
- (2) The report shall state the number of criminal and small claims actions filed, the dispositions entered, and other information as specified in the forms.
- (3) A copy of the report shall be furnished by the justice court to the person or office in the county, city, or town designated by the governing body to receive the report.

Amended by Chapter 205, 2012 General Session

Part 3
Technology, Security, and Training Account

78A-7-301 Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

- (1) The state treasurer shall deposit in the account money collected from the surcharge established in Subsection 78A-7-122(4)(b)(iii).
- (2) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for audit, technology, security, and training needs in justice courts throughout the state.

Amended by Chapter 189, 2014 General Session

Chapter 8
Small Claims Courts

78A-8-101 Creation.

There is created a limited jurisdiction division of the district and justice courts designated small claims court.

Amended by Chapter 205, 2012 General Session

78A-8-102 Small claims -- Defined -- Counsel not necessary -- Removal from district court -- Deferring multiple claims of one plaintiff -- Supreme Court to govern procedures.

- (1) A small claims action is a civil action:
 - (a) for the recovery of money when:
 - (i) the amount claimed does not exceed \$11,000 including attorney fees, but exclusive of court costs and interest; and
 - (ii) the defendant resides or the action of indebtedness was incurred within the jurisdiction of the court in which the action is to be maintained; or
 - (b) involving interpleader under Rule 22 of the Utah Rules of Civil Procedure, in which the amount claimed does not exceed \$11,000 including attorney fees, but exclusive of court costs and interest.
- (2)
 - (a) A defendant in an action filed in the district court that meets the requirement of Subsection (1)(a)(i) may remove, if agreed to by the plaintiff, the action to a small claims court within the same district by:
 - (i) giving notice, including the small claims filing number, to the district court of removal during the time afforded for a responsive pleading; and
 - (ii) paying the applicable small claims filing fee.
 - (b) A filing fee may not be charged to a plaintiff to appeal a judgment on an action removed under Subsection (2)(a) to the district court where the action was originally filed.
- (3) The judgment in a small claims action may not exceed \$11,000 including attorney fees, but exclusive of court costs and interest.
- (4) A counter claim may be maintained in a small claims action if the counter claim arises out of the transaction or occurrence which is the subject matter of the plaintiff's claim. A counter claim may not be raised for the first time in the trial de novo of the small claims action.
- (5) A claim involving property damage from a motor vehicle accident may be maintained in a small claims action, and any removal or appeal of the small claims action, without limiting the ability of a plaintiff to make a claim for bodily injury against the same defendant in a separate legal action. In the event that a property damage claim is brought as a small claims action:
 - (a) a liability decision in an original small claims action or appeal of the original small claims action is not binding in a separate legal action for bodily injury; and
 - (b) an additional property damage claim may not be brought in a separate legal action for bodily injury.
- (6)
 - (a) With or without counsel, persons or corporations may litigate actions on behalf of themselves:
 - (i) in person; or
 - (ii) through authorized employees.
 - (b) A person or corporation may be represented in an action by an individual who is not an employee of the person or corporation and is not licensed to practice law only in accordance with the Utah Rules of Small Claims Procedure as made by the Supreme Court.
- (7) If a person or corporation other than a municipality or a political subdivision of the state files multiple small claims in any one court, the clerk or judge of the court may remove all but the

initial claim from the court's calendar in order to dispose of all other small claims matters. A claim so removed shall be rescheduled as permitted by the court's calendar.

- (8) A small claims matter shall be managed in accordance with simplified rules of procedure and evidence made by the Supreme Court.

Amended by Chapter 73, 2017 General Session

78A-8-103 Assignee may not file claim.

A claim may not be filed or prosecuted in small claims court by any assignee of a claim.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-8-104 Object of small claims -- Attachment, garnishment, and execution.

- (1) The hearing in a small claims action has the sole object of dispensing speedy justice between the parties. The record of small claims proceedings shall be as provided by rule of the Judicial Council.
- (2) Attachment, garnishment, and execution may issue after judgment as prescribed by law, upon the payment of the fees required for those services.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-8-105 Civil filing fees.

- (1) Except as provided in this section, the fees for a small claims action in justice court shall be the same as provided in Section 78A-2-301.
- (2) Fees collected in small claims actions filed in municipal justice court are remitted to the municipal treasurer. Fees collected in small claims actions filed in a county justice court are remitted to the county treasurer.
- (3) The fee in the justice court for filing a notice of appeal for trial de novo in a court of record is \$10. The fee covers all services of the justice court on appeal but does not satisfy the trial de novo filing fee in the court of record.

Amended by Chapter 34, 2010 General Session

78A-8-106 Appeals -- Who may take and jurisdiction.

- (1) Either party may appeal the judgment in a small claims action to the district court of the county by filing a notice of appeal in the original trial court within 28 days of entry of the judgment. If the judgment in a small claims action is entered by a judge or judge pro tempore of the district court, the notice of appeal shall be filed with the district court.
- (2) The appeal is a trial de novo and shall be tried in accordance with the procedures of small claims actions. A record of the trial shall be maintained. The trial de novo may not be heard by a judge pro tempore appointed under Section 78A-8-108. The decision of the trial de novo may not be appealed unless the court rules on the constitutionality of a statute or ordinance.

Amended by Chapter 115, 2017 General Session

78A-8-107 Costs.

The prevailing party in any small claims action is entitled to costs of the action and also the costs of execution upon a judgment rendered therein.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-8-108 Evening hours -- Judges pro tempore.

- (1) The district or justice court may request that the Supreme Court appoint a member of the Utah State Bar in good standing, with the member's consent, as judge pro tempore to hear and determine small claims at times, including evening sessions, to be set by the court.
- (2) After being duly sworn, judges pro tempore shall:
 - (a) serve voluntarily and without compensation at the request of the court; and
 - (b) be extended the same immunities, and have the same powers with respect to matters within the jurisdiction of the small claims court as exercised by a regular judge.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-8-109 Report to Judiciary Interim Committee.

The Judicial Council shall present to the Judiciary Interim Committee, if requested by the committee, a report and recommendation concerning the maximum amount of small claims actions.

Amended by Chapter 51, 2011 General Session

Chapter 9 Attorneys

78A-9-101 Admission to state bar -- Criminal history background checks.

- (1) The Utah State Bar shall require each person applying for admission to the Utah State Bar to submit a complete set of fingerprints for the purpose of conducting a national criminal history background check.
- (2) Fingerprints of applicants for admission to the Utah State Bar shall be submitted to the Department of Public Safety, Bureau of Criminal Identification to be used to conduct a criminal history background check and to the Federal Bureau of Investigation to obtain a national criminal history background check.
- (3) The criminal history background information obtained from the Department of Public Safety and the national criminal history background information obtained from the Federal Bureau of Investigation pursuant to this section may be used by the Utah State Bar to determine an applicant's character, fitness, and suitability for admission to the Utah State Bar.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-9-102 Fees for certificate of admission.

The appellate courts shall receive a \$50 fee for a certificate of admission as attorney and counselor, \$30 of which shall be distributed by the state treasurer to the Judicial Council as a dedicated credit for the benefit of the State Law Library.

Amended by Chapter 391, 2010 General Session

78A-9-103 Practicing law without a license prohibited -- Exceptions.

- (1) Unless otherwise provided by law or court rule, an individual may not practice law or assume to act or hold himself or herself out to the public as an individual qualified to practice law within this state if that individual:
 - (a) is not admitted and licensed to practice law within this state;
 - (b) has been disbarred or suspended from the practice of law; or
 - (c) is prohibited from practicing law by court order entered pursuant to the courts' inherent powers or published court rule.
- (2) The prohibition against the practice of law described in Subsection (1) shall be enforced by any civil action or proceeding instituted by the Board of Commissioners of the Utah State Bar.
- (3) Nothing in this section prohibits an individual from personally and fully representing that individual's own interests in a cause to which that individual is a party in the individual's own right and not as an assignee.

Amended by Chapter 2, 2013 Special Session 1

Amended by Chapter 2, 2013 Special Session 1

**Chapter 10
Judicial Selection Act**

**Part 1
General Provisions**

78A-10-101 Title.

This chapter is known as the "Judicial Selection Act."

Enacted by Chapter 3, 2008 General Session

78A-10-102 Nomination, appointment, and confirmation of judges.

Judges for courts of record in Utah shall be nominated, appointed, and confirmed as provided in Utah Constitution Article VIII, Section 8, and this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-10-103 Procedures governing meetings of judicial nominating commissions.

- (1) The Commission on Criminal and Juvenile Justice shall:
 - (a) in consultation with the Judicial Council, enact rules establishing procedures governing the meetings of the judicial nominating commissions in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (b) ensure that those procedures include:
 - (i) a minimum recruitment period of at least 30 days but not more than 90 days, unless fewer than nine applications are received for a judicial vacancy, in which case the recruitment period may be extended up to 30 days;
 - (ii) standards for maintaining the confidentiality of the applications and related documents;
 - (iii) standards governing the release of applicant names before nomination;

- (iv) standards for destroying the records of the names of applicants, applications, and related documents upon completion of the nominating process;
 - (v) an opportunity for public comment concerning the nominating process, qualifications for judicial office, and individual applicants;
 - (vi) evaluation criteria for the selection of judicial nominees;
 - (vii) procedures for taking summary minutes at nominating commission meetings;
 - (viii) procedures for simultaneously forwarding the names of nominees to the governor, the president of the Senate, and the Office of Legislative Research and General Counsel;
 - (ix) standards governing a nominating commissioner's disqualification and inability to serve; and
 - (x) procedures that require the Administrative Office of the Courts to immediately inform the governor when a judge is removed, resigns, or retires.
- (2) In determining which of the applicants are the most qualified, the nominating commissions shall determine by a majority vote of the commissioners present which of the applicants best possess the ability, temperament, training, and experience that qualifies them for the office.
- (3)
- (a) Except as provided under Subsection (3)(b):
 - (i) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and
 - (ii) trial court nominating commissions shall certify to the governor a list of the five most qualified applicants per vacancy.
 - (b) If a nominating commission is considering applicants for more than one judicial vacancy existing at the same time and for the same court, the nominating commission shall include one additional applicant for each additional vacancy in the court in the list of applicants the commission certifies to the governor.
- (4) Nominating commissions shall ensure that the list of applicants submitted to the governor:
- (a) meet the qualifications required by law to fill the office; and
 - (b) are willing to serve.
- (5) In determining which of the applicants are the most qualified, nominating commissions may not decline to submit a candidate's name to the governor merely because:
- (a) the nominating commission had declined to submit that candidate's name to the governor to fill a previous vacancy;
 - (b) a previous nominating commission had declined to submit that candidate's name to the governor; or
 - (c) that nominating commission or a previous nominating commission had submitted the applicant's name to the governor and the governor selected someone else to fill the vacancy.
- (6) A judicial nominating commission may not nominate a justice or judge who was not retained by the voters for the office for which the justice or judge was defeated until after the expiration of that term of office.
- (7) Judicial nominating commissions are exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 7, 2016 Special Session 3

78A-10-104 Convening of judicial nominating commissions -- Certification to governor of nominees -- Meetings to investigate prospective candidates.

- (1) Unless a hiring freeze is implemented in accordance with Section 78A-2-113, the governor shall ensure that:

- (a) the recruitment period to fill a judicial vacancy begins 235 days before the effective date of a vacancy, unless sufficient notice is not given, in which case the recruitment period shall begin within 10 days of receiving notice;
 - (b) the recruitment period is a minimum of 30 days but not more than 90 days, unless fewer than nine applications are received, in which case the recruitment period may be extended up to 30 days; and
 - (c) the chair of the judicial nominating commission having authority over the vacancy shall convene a meeting not more than 10 days after the close of the recruitment period.
- (2) The time limits in Subsection (1) shall begin to run the day the hiring freeze ends.
 - (3) The nominating commission may:
 - (a) meet as necessary to perform its function; and
 - (b) investigate prospective candidates.
 - (4) Not later than 45 days after convening, the:
 - (a) appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and
 - (b) trial court nominating commission shall certify to the governor a list of the five most qualified applicants per vacancy.
 - (5) The governor shall fill the vacancy within 30 days after receiving the list of nominees.
 - (6) If the governor fails to fill the vacancy within 30 days of receiving the list of nominees from the nominating commission, the chief justice of the Supreme Court shall, within 20 days, appoint a person from the list of nominees certified to the governor.
 - (7) A nominating commission may not nominate a person who has served on a nominating commission within six months of the date that the commission was last convened.

Amended by Chapter 134, 2010 General Session

Amended by Chapter 134, 2010 General Session, (Coordination Clause)

78A-10-105 Senate confirmation of judicial appointments -- Courts of record.

- (1) The Senate shall:
 - (a) consider and decide on each judicial appointment within 60 days of the date of appointment; and
 - (b) if necessary, convene itself in extraordinary session to consider a judicial appointment.
- (2) If the Senate fails to approve the appointment, the office is considered vacant and a new nominating process begins.
- (3) An appointment is effective upon approval of a majority of all members of the Senate.
- (4) The judicial nominating commission, the governor, the chief justice, and the Senate shall nominate and select judges based solely upon consideration of their fitness for office without regard to any partisan political considerations.

Enacted by Chapter 134, 2010 General Session

Part 2
Appellate Court Nominating Commission

78A-10-201 Creation.

- (1) There is created an Appellate Court Nominating Commission.

- (2) The Appellate Court Nominating Commission shall nominate justices of the Supreme Court and judges of the Court of Appeals.

Enacted by Chapter 3, 2008 General Session

78A-10-202 Membership.

- (1) The Appellate Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a single four-year term.
- (2) Each commissioner shall:
 - (a) be a United States citizen;
 - (b) be a resident of Utah; and
 - (c) serve until the commissioner's successor is appointed.
- (3) The governor may not appoint:
 - (a) a commissioner to serve successive terms;
 - (b) a member of the Legislature to serve as a member of the Appellate Court Nominating Commission; or
 - (c) more than four commissioners from the same political party to the Appellate Court Nominating Commission.
- (4)
 - (a) The Utah State Bar shall submit to the governor a list of six nominees to serve as Appellate Court Nominating Commissioners.
 - (b) The governor shall appoint two commissioners from the list of nominees provided by the Utah State Bar.
 - (c) The governor may reject the list submitted by the Utah State Bar and request a new list of nominees.
- (5) The governor may not appoint more than four persons who are members of the Utah State Bar to the Appellate Court Nominating Commission.
- (6) The chief justice of the Supreme Court shall appoint another member of the Judicial Council to serve as an ex officio, nonvoting member of the Appellate Court Nominating Commission.
- (7) The governor shall appoint the chair of the Appellate Court Nominating Commission from among the membership.

Amended by Chapter 134, 2010 General Session

78A-10-203 Procedure.

- (1) Four commissioners are a quorum.
- (2) The governor shall appoint a member of the governor's staff to serve as staff to the Appellate Court Nominating Commission.
- (3) The governor shall:
 - (a) ensure that the commission follows the rules promulgated by the Commission on Criminal and Juvenile Justice; and
 - (b) resolve any questions regarding those rules.
- (4) A member of the commission who is also a member of the Utah State Bar may recuse himself if there is a conflict of interest that makes the member unable to serve.

Amended by Chapter 134, 2010 General Session

78A-10-204 Vacancies.

- (1) The governor shall fill any vacancy in the office of Appellate Court Nominating Commission.
- (2) If an appellate court nominating commissioner is disqualified or is otherwise unable to serve, the governor shall appoint a new commissioner of the same political party as the unavailable commissioner.
- (3) If a vacancy occurs among commission members who are also members of the Utah State Bar, the governor shall replace that commissioner with a person from a list of nominees submitted by the Utah State Bar as provided in Section 78A-10-202.
- (4) The governor shall ensure that each person who is appointed to fill any vacancy on the Appellate Court Nominating Commission, other than a vacancy caused by expiration of term, is a member of the same political party as the commissioner whom the person replaced.
- (5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term and may not be reappointed.

Enacted by Chapter 3, 2008 General Session

78A-10-205 Expenses -- Per diem and travel.

A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Repealed and Re-enacted by Chapter 286, 2010 General Session

Part 3
Trial Court Nominating Commission

78A-10-301 Creation.

- (1) There is created a Trial Court Nominating Commission for each geographical division of the trial courts of record.
- (2) The Trial Court Nominating Commission shall nominate judges of the district court and the juvenile court within its geographical division.

Enacted by Chapter 3, 2008 General Session

78A-10-302 Membership.

- (1) The Trial Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a single four-year term.
- (2) Each commissioner shall:
 - (a) be a United States citizen;
 - (b) be a resident of Utah;
 - (c) be a resident of the geographic division to be served by the commission to which the commissioner is appointed; and
 - (d) serve until the commissioner's successor is appointed.
- (3) The governor may not appoint:
 - (a) a commissioner to serve successive terms;

- (b) a member of the Legislature to serve as a member of a Trial Court Nominating Commission;
or
- (c) more than four commissioners from the same political party to a Trial Court Nominating Commission.
- (4) The governor shall appoint two commissioners from a list of nominees provided by the Utah State Bar.
- (5) The Utah State Bar shall submit:
 - (a) six nominees from Districts 2, 3, and 4; and
 - (b) four nominees from Districts 1, 5, 6, 7, and 8.
- (6) The governor may reject any list and request a new list of nominees.
- (7) The governor may not appoint more than four persons who are members of the Utah State Bar to a Trial Court Nominating Commission.
- (8) The chief justice of the Supreme Court shall appoint another member of the Judicial Council to serve as an ex officio, nonvoting member of each Trial Court Nominating Commission.
- (9) The governor shall appoint the chair of each Trial Court Nominating Commission from among its membership.

Amended by Chapter 134, 2010 General Session

78A-10-303 Procedure.

- (1) Four commissioners are a quorum.
- (2) The governor shall appoint a member of the governor's staff to serve as staff to each Trial Court Nominating Commission.
- (3) The governor shall:
 - (a) ensure that each Trial Court Nominating Commission follows the rules promulgated by the Commission on Criminal and Juvenile Justice; and
 - (b) resolve any questions regarding those rules.
- (4) A member of a Trial Court Nominating Commission who is also a member of the Utah State Bar may recuse himself if there is a conflict of interest that makes the member unable to serve.

Amended by Chapter 134, 2010 General Session

78A-10-304 Vacancies.

- (1) The governor shall fill any vacancy on the Trial Court Nominating Commission.
- (2) If a commissioner is disqualified or otherwise unable to serve, the governor shall appoint a new commissioner of the same political party as the unavailable commissioner.
- (3) If a vacancy occurs among commission members who are also members of the Utah State Bar, the governor shall replace that commissioner with a person from a list of nominees submitted by the Utah State Bar as provided in Section 78A-10-302.
- (4) The governor shall ensure that each person who is appointed to fill any vacancy in the office of commissioner, other than a vacancy caused by expiration of term, is a member of the same political party as the commissioner whom the person replaced.
- (5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term of the commissioner being replaced and may not be reappointed.

Enacted by Chapter 3, 2008 General Session

78A-10-305 Expenses -- Per diem and travel.

A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Repealed and Re-enacted by Chapter 286, 2010 General Session

Chapter 11 Judicial Conduct Commission

78A-11-101 Creation.

In accordance with Article VIII, Section 13 of the Utah Constitution, a Judicial Conduct Commission is created.

Enacted by Chapter 3, 2008 General Session

78A-11-102 Definitions.

As used in this chapter:

- (1) "Commission" means the Judicial Conduct Commission established by Utah Constitution Article VIII, Section 13 and this chapter.
- (2)
 - (a) "Complaint" includes:
 - (i) a written complaint against a judge; or
 - (ii) an allegation based on reliable information received in any form, from any source, that alleges, or from which a reasonable inference can be drawn that a judge is in violation of any provision of Utah Constitution Article VIII, Section 13.
 - (b) "Complaint" does not include an allegation initiated by the commission or its staff.
- (3) "Investigation" means an inquiry into an allegation of misconduct, including a search for and examination of evidence concerning the allegations, which begins upon the receipt of a complaint and is completed when either the complaint is dismissed by a majority vote of the commission or when an order is sent to the Supreme Court for its review in accordance with Utah Constitution Article VIII, Section 13.
- (4) "Judge" includes the chief justice of the Supreme Court, a justice of the Supreme Court, an appellate court judge, a district court judge, an active senior judge, a juvenile court judge, a justice court judge, an active senior justice court judge, and a judge pro tempore of any court of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-11-103 Judicial Conduct Commission -- Members -- Terms -- Vacancies -- Voting -- Power of chair.

- (1) The membership of the commission consists of the following 11 members:

- (a) two members of the House of Representatives to be appointed by the speaker of the House of Representatives for a four-year term, not more than one of whom may be of the same political party as the speaker;
 - (b) two members of the Senate to be appointed by the president of the Senate for a four-year term, not more than one of whom may be of the same political party as the president;
 - (c) two members of, and in good standing with, the Utah State Bar, who shall be appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may reside in the same judicial district;
 - (d) three persons not members of the Utah State Bar, who shall be appointed by the governor, with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, for four-year terms, not more than two of whom may be of the same political party as the governor; and
 - (e) two judges to be appointed by a majority of the Utah Supreme Court for a four-year term, neither of whom may:
 - (i) be a member of the Utah Supreme Court;
 - (ii) serve on the same level of court as the other; and
 - (iii) if trial judges, serve primarily in the same judicial district as the other.
- (2)
- (a) The terms of the members shall be staggered so that approximately half of the commission expires every two years.
 - (b) Members of the commission may not serve longer than eight years.
- (3) The commission shall establish guidelines and procedures for the disqualification of any member from consideration of any matter. A judge who is a member of the commission or the Supreme Court may not participate in any proceedings involving the judge's own removal or retirement.
- (4)
- (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the appointing authority for that position for the unexpired term.
 - (b) If the appointing authority fails to appoint a replacement, the commissioners who have been appointed may act as a commission under all the provisions of this section.
- (5) Six members of the commission shall constitute a quorum. Any action of a majority of the quorum constitutes the action of the commission.
- (6)
- (a) At each commission meeting, the chair and executive director shall schedule all complaints to be heard by the commission and present any information from which a reasonable inference can be drawn that a judge has committed misconduct so that the commission may determine by majority vote of a quorum whether the executive director shall draft a written complaint in accordance with Subsection 78A-11-102(2)(b).
 - (b) The chair and executive director may not act to dismiss any complaint without a majority vote of a quorum of the commission.
 - (c) A member of the commission described in Subsection (1)(d) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.
- (7) It is the responsibility of the chair and the executive director to ensure that the commission complies with the procedures of the commission.
- (8) The chair shall be nonvoting except in the case of a tie vote.
- (9) The chair shall be allowed the actual expenses of secretarial services, the expenses of services for either a court reporter or a transcriber of electronic tape recordings, and other necessary administrative expenses incurred in the performance of the duties of the commission.

- (10) Upon a majority vote of the quorum, the commission may:
 - (a) employ an executive director, legal counsel, investigators, and other staff to assist the commission; and
 - (b) incur other reasonable and necessary expenses within the authorized budget of the commission and consistent with the duties of the commission.
- (11) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

Amended by Chapter 352, 2020 General Session

Amended by Chapter 373, 2020 General Session

78A-11-104 Expenses -- Per diem and travel.

- (1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

78A-11-105 Grounds for reprimand, censure, suspension, removal, or involuntary retirement of justice, judge, or justice court judge -- Suspension.

- (1) The commission may issue an order, subject to the Supreme Court's review and issuance of a final order implementing, rejecting, or modifying the commission's order, that any judge be reprimanded, censured, suspended, removed from office, or involuntarily retired, for:
 - (a) action which constitutes willful misconduct in office;
 - (b) final conviction of a crime punishable as a felony under state or federal law;
 - (c) willful and persistent failure to perform judicial duties;
 - (d) disability that seriously interferes with the performance of judicial duties; or
 - (e) conduct prejudicial to the administration of justice which brings a judicial office into disrepute.
- (2) In addition to the reasons specified in Subsection (1), the Supreme Court shall order the reprimand, censure, suspension, removal, or involuntary retirement of any justice court judge who fails to obtain and maintain certification from the Judicial Council for attendance at required judicial training courses or who fails to meet the minimum requirements for office, including residency.
- (3)
 - (a) The Supreme Court may, on its own motion, suspend or remove a judge from office if the judge:
 - (i) develops a physical or mental disability that seriously interferes with the performance of his judicial duties as provided in the Utah Constitution, Article VIII, Section 13, Paragraph 4;
 - (ii) becomes unqualified to hold the judicial office as provided in the Utah Constitution, Article VIII, Sections 7 and 10, and Section 78A-2-221; or
 - (iii) brings the judicial office into disrepute by engaging in conduct prejudicial to the administration of justice as provided in the Utah Constitution, Article VIII, Section 13, Paragraph 5.
 - (b) The Supreme Court shall provide notice to the judge and an opportunity to be heard.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-11-106 Criminal investigation of a judge -- Administrative leave.

- (1)
 - (a)
 - (i) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a misdemeanor or felony under state or federal law has been committed by a judge other than the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to the chief justice of the Supreme Court.
 - (ii)
 - (A) Unless the allegation is plainly frivolous, the commission shall also immediately refer the allegation of criminal misconduct and any information relevant to the potential criminal violation to the local prosecuting attorney having jurisdiction to investigate and prosecute the crime.
 - (B) If the local prosecuting attorney receiving the allegation of criminal misconduct of a judge practices before that judge on a regular basis, or has a conflict of interest in investigating the crime, the local prosecuting attorney shall refer the allegation of criminal misconduct to another local or state prosecutor who would not have the same disability or conflict.
 - (C) The commission may concurrently proceed with its investigation of the complaint without waiting for the resolution of the criminal investigation by the prosecuting attorney.
 - (b) The chief justice of the Supreme Court may place a justice of the Supreme Court, an appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore on administrative leave with or without pay if the chief justice has a reasonable basis to believe that the alleged crime occurred, that the justice of the Supreme Court, appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore committed the crime, and that the crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.
- (2)
 - (a) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a misdemeanor or felony under state or federal law has been committed by the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to two justices of the Supreme Court and the local prosecuting attorney in accordance with Subsection (1)(a)(ii).
 - (b) Two justices of the Supreme Court may place the chief justice of the Supreme Court on administrative leave with or without pay if the two justices have a reasonable basis to believe that the alleged crime occurred, that the chief justice committed the crime, and that the crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.
- (3)
 - (a) If a judge is or has been criminally charged or indicted for a class A misdemeanor or any felony under state or federal law and if the Supreme Court has not already acted under Subsection (1) or (2), the appropriate member or members of the Supreme Court as provided

in Subsection (1) or (2), shall place the judge on administrative leave with or without pay pending the outcome of the criminal proceeding.

- (b) The state court administrator shall, for the duration of the administrative leave, withhold all employer and employee contributions required under Sections 49-17-301 and 49-18-301.
 - (c) If the judge is not convicted of the criminal charge, and if after an investigation and final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or compensation for the period of administrative leave, and all contributions withheld under Subsection (3)(b) shall be deposited in accordance with Sections 49-17-301 and 49-18-301.
- (4) The chief justice of the Supreme Court or two justices of the Supreme Court who ordered the judge on administrative leave shall order the reinstatement of the judge:
- (a) if the prosecutor to whom the allegations are referred by the commission determines no charge or indictment should be filed; or
 - (b) after final disposition of the criminal case, if the judge is not convicted of a criminal charge and if the commission has not ordered the removal of the judge.

Amended by Chapter 25, 2018 General Session

78A-11-107 Referral of attorney misconduct.

If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a member of the state bar has violated one of the Rules of Professional Conduct, the commission shall refer that information about the attorney to the Office of Professional Conduct of the Utah State Bar.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-11-108 Involuntary disability retirement or removal of a judge.

- (1) The commission shall recommend and issue an order for the removal or involuntary retirement of a judge of any court of this state, in accordance with the procedure outlined in this section, for a disability that seriously interferes with the performance of the judge's judicial duties and which is, or is likely to become, of a permanent character.
- (2) The commission shall order a medical examination and report.
- (3) The commission in recommending an order of involuntary retirement or removal of a judge for a disability, shall base it on the evaluation and recommendations submitted by one or more medical examiners or physicians, including an examination of essential statements submitted by either bar or judicial associations or committees certifying that:
 - (a) the judge acquires a physical or mental disability and this disability seriously interferes with the performance of the judge's judicial duties; and
 - (b) the judge's incapacity is likely to continue and be permanent and that the judge should be involuntarily retired or removed.
- (4)
 - (a) The Supreme Court shall review the commission's proceedings as to both law and fact and may permit the introduction of additional evidence.
 - (b) After its review, the Supreme Court shall issue its order implementing, rejecting, or modifying the commission's order.
- (5) Retirement or involuntary retirement as provided in this chapter shall be processed through the Utah State Retirement Office, and the judge retiring shall meet the requirements for retirement as specified in this chapter.

- (6) Upon an order for involuntary retirement, the judge shall retire with the same rights and privileges as if the judge retired pursuant to statute.

Amended by Chapter 366, 2011 General Session

78A-11-109 Receipt of complaints.

- (1) The commission shall receive and investigate any complaint against a judge.
- (2) Unless the complaint alleges criminal misconduct, the commission may decline to investigate any complaint received four or more years after the act or omission which constitutes the alleged misconduct.
- (3) During the course of any investigation, the commission may order a hearing to be held concerning the reprimand, censure, suspension, removal, or involuntary retirement of a judge.
- (4) The commission shall provide the judge with all information necessary to prepare an adequate response or defense, which may include the identity of the complainant.

Enacted by Chapter 3, 2008 General Session

Amended by Chapter 274, 2008 General Session

78A-11-110 Hearing.

- (1)
 - (a) A hearing may be conducted before a quorum of the commission.
 - (b) Any finding or order shall be made upon a majority vote of the quorum.
- (2) Alternatively, the commission may appoint three special masters, who are judges of courts of record, to hear and take evidence in the matter and to report to the commission.
- (3)
 - (a) After the hearing or after considering the record and report of the masters, if the commission finds by a preponderance of the evidence that misconduct occurred, it shall order the reprimand, censure, suspension, removal, or involuntary retirement of the judge.
 - (b) When a commission order is sent to the Supreme Court, it shall also be:
 - (i) publicly disclosed; and
 - (ii) sent to the entity that appointed the judge.
 - (c) In recommending any order, including stipulated orders, the commission may not place, or attempt to place, any condition or limitation upon the Supreme Court's constitutional power to:
 - (i) review the commission's proceedings as to both law and fact; or
 - (ii) implement, reject, or modify a commission order.
- (4) When the commission issues any order, including a stipulated order, that is sent to the Supreme Court, the record shall include:
 - (a) the original complaint and any other information regarding violations, or potential violations, of the Code of Judicial Conduct;
 - (b) the charges;
 - (c) all correspondence and other documents which passed between the commission and the judge;
 - (d) all letters which may explain the charges;
 - (e) all affidavits, subpoenas, and testimony of witnesses;
 - (f) the commission's findings of fact and conclusions of law;
 - (g) a transcript of any proceedings, including hearings on motions;
 - (h) a copy of each exhibit admitted into evidence;

- (i) a summary of all the complaints dismissed by the commission against the judge which contained allegations or information similar in nature to the misconduct under review by the Supreme Court;
- (j) a summary of all the orders implemented, rejected, or modified by the Supreme Court against the judge; and
- (k) all information in the commission's files on any informal resolution, including any letter of admonition, comment, or caution, that the commission issued against the judge prior to May 1, 2000.

Enacted by Chapter 3, 2008 General Session

78A-11-111 Supreme Court action.

- (1) Before the implementation, rejection, or modification of any commission order the Supreme Court shall:
 - (a) review the commission's proceedings as to both law and fact and may permit the introduction of additional evidence; and
 - (b) consider the number and nature of previous orders issued by the Supreme Court and may increase the severity of the order based on a pattern or practice of misconduct or for any other reason that the Supreme Court finds just and proper.
- (2) After briefs have been submitted and any oral argument made, the Supreme Court shall issue its order implementing, rejecting, or modifying the commission's order.
- (3)
 - (a) Upon an order for removal, the judge shall be removed from office and his salary or compensation ceases from the date of the order.
 - (b) Upon an order for suspension from office, the judge may not perform any judicial functions and may not receive a salary for the period of suspension.

Enacted by Chapter 3, 2008 General Session

78A-11-112 Confidentiality.

- (1) The transmission, production, or disclosure of any complaints, papers, or testimony in the course of proceedings before the commission, the masters appointed under Section 78A-11-110, or the Supreme Court may not be introduced in any civil action.
- (2) The transmission, production, or disclosure of any complaints, papers, or testimony in the course of proceedings before the commission or the masters appointed under Section 78A-11-110 may be introduced in any criminal action, consistent with the Utah Rules of Evidence. This information shall be shared with the prosecutor conducting a criminal investigation or prosecution of a judge as provided in Section 78A-11-106.
- (3) Complaints, papers, testimony, or the record of the commission's confidential hearing may not be disclosed by the commission, masters, or any court until the Supreme Court has entered its final order in accordance with this section, except:
 - (a) upon order of the Supreme Court;
 - (b) upon the request of the judge who is the subject of the complaint;
 - (c) as provided in Subsection (4);
 - (d) to aid in a criminal investigation or prosecution as provided in Section 78A-11-106; or
 - (e) this information is subject to audit by the Office of Legislative Auditor General, and any records released to the Office of Legislative Auditor General shall be maintained as confidential, except:

- (i) for information that has already been made public; and
 - (ii) the final written and oral audit report of the Legislative Auditor General may present information about the commission as long as it contains no specific information that would easily identify a judge, witness, or complainant.
- (4) If the Senate Judicial Confirmation Committee requests Judicial Conduct Commission records, the commission shall disclose the information to the Senate Judicial Confirmation Committee or its staff if the chair of the Senate Judicial Confirmation Committee certifies in writing that the committee will limit the disclosure of any information received to the minimum amount necessary to allow the Senate to evaluate the candidate's fitness for office.
- (5) Upon the dismissal of a complaint or allegation against a judge, the dismissal shall be disclosed without consent of the judge to the person who filed the complaint.

Amended by Chapter 114, 2009 General Session

78A-11-113 Subpoena power of the commission -- Testimony -- Contempt.

- (1) The commission may issue subpoenas in aid of an investigation of a complaint filed with the commission. The subpoena shall have the same authority as an order of the district court. Commission subpoenas shall be issued in the manner and form prescribed for subpoenas by the Utah Rules of Civil Procedure. Commission subpoenas shall be served in the manner prescribed for subpoenas by the Utah Rules of Civil Procedure.
- (2) The commission may administer oaths and compel testimony under oath in aid of an investigation of a complaint filed with the commission and at hearings before the commission.
- (3) If a person fails to comply with a subpoena, or if a person appears before the commission and refuses to testify to a matter upon which the person may be lawfully questioned, the person is in contempt of the commission, and the commission may file in the district court a motion for an order to show cause why the penalties established in Title 78B, Chapter 6, Part 3, Contempt, should not be imposed.

Renumbered and Amended by Chapter 3, 2008 General Session

Chapter 12
Judicial Performance Evaluation Commission Act

Part 1
General Provisions

78A-12-101 Title.

This chapter is known as the "Judicial Performance Evaluation Commission Act."

Enacted by Chapter 248, 2008 General Session

78A-12-102 Definitions.

As used in this chapter:

- (1) "Commission" means the Judicial Performance Evaluation Commission established by this chapter.

- (2) Except as provided in Section 78A-12-207, "judge" means a state court judge or a state court justice who is subject to a retention election.
- (3) "Justice" means a judge who is a member of the Supreme Court.
- (4) "Justice court judge" means a judge appointed pursuant to Title 78A, Chapter 7, Justice Court.

Amended by Chapter 152, 2014 General Session

Part 2 Judicial Performance Evaluation

78A-12-201 Judicial Performance Evaluation Commission -- Creation -- Membership.

- (1) There is created an independent commission called the Judicial Performance Evaluation Commission consisting of 13 members, as follows:
 - (a) two members appointed by the president of the Senate, only one of whom may be a member of the Utah State Bar;
 - (b) two members appointed by the speaker of the House of Representatives, only one of whom may be a member of the Utah State Bar;
 - (c) four members appointed by the members of the Supreme Court, at least one of whom, but not more than two of whom, may be a member of the Utah State Bar;
 - (d) four members appointed by the governor, at least one of whom, but not more than two of whom, may be a member of the Utah State Bar; and
 - (e) the executive director of the Commission on Criminal and Juvenile Justice.
- (2)
 - (a) The president of the Senate and the speaker of the House of Representatives shall confer when appointing members under Subsections (1)(a) and (b) to ensure that there is at least one member from among their four appointees who is a member of the Utah State Bar.
 - (b) Each of the appointing authorities may appoint no more than half of the appointing authority's members from the same political party.
 - (c) A sitting legislator or a sitting judge may not serve as a commission member.
- (3)
 - (a) A member appointed under Subsection (1) shall be appointed for a four-year term.
 - (b) A member may serve no more than three consecutive terms.
- (4) At the time of appointment, the terms of commission members shall be staggered so that approximately half of commission members' terms expire every two years.
- (5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the same appointing authority that appointed the member creating the vacancy.
- (6)
 - (a) Eight members of the commission constitute a quorum.
 - (b) The action of a majority of the quorum constitutes the action of the commission, except that a decision of the commission to recommend that a judge be retained or not be retained may not be made except by a vote of at least six members. If because of absences the commission is unable to have at least six votes recommending that a judge be retained or not retained, the commission may meet a second time to consider whether to recommend that the judge be retained or not retained.

- (c) If a vote on the question of whether to recommend a judge be retained or not be retained ends in a tie or if a decision does not have six votes required by Subsection (6)(b), the commission may make no recommendation concerning the judge's retention.

Amended by Chapter 374, 2017 General Session

78A-12-202 Salary and expenses -- Staff.

- (1) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (2) The commission shall elect a chair from among its members.
- (3) The commission shall employ an executive director and may employ additional staff as necessary within budgetary constraints.
- (4) The commission shall be located in the Commission on Criminal and Juvenile Justice.

Amended by Chapter 286, 2010 General Session

78A-12-203 Judicial performance evaluations.

- (1) Beginning with the 2012 judicial retention elections, the commission shall prepare a performance evaluation for:
 - (a) each judge in the third and fifth year of the judge's term if the judge is not a justice of the Supreme Court; and
 - (b) each justice of the Utah Supreme Court in the third, seventh, and ninth year of the justice's term.
- (2) Except as provided in Subsection (3), the performance evaluation for a judge under Subsection (1) shall consider only the following information but shall give primary emphasis to the information that is gathered and relates to the performance of the judge during the period subsequent to the last judicial retention election of that judge or if the judge has not had a judicial retention election, during the period applicable to the first judicial retention election:
 - (a) the results of the judge's most recent judicial performance survey that is conducted by a third party in accordance with Section 78A-12-204;
 - (b) information concerning the judge's compliance with minimum performance standards established in accordance with Section 78A-12-205;
 - (c) courtroom observation;
 - (d) the judge's judicial disciplinary record, if any;
 - (e) public comment solicited by the commission;
 - (f) information from an earlier judicial performance evaluation concerning the judge except that the commission shall give primary emphasis to information gathered subsequent to the last judicial retention election; and
 - (g) any other factor that the commission:
 - (i) considers relevant to evaluating the judge's performance for the purpose of a retention election; and
 - (ii) establishes by rule.
- (3) The commission shall make rules concerning the conduct of courtroom observation under Subsection (2), which shall include the following:
 - (a) an indication of who may perform the courtroom observation;

- (b) a determination of whether the courtroom observation shall be made in person or may be made by electronic means; and
 - (c) a list of principles and standards used to evaluate the behavior observed.
- (4)
- (a) As part of the evaluation conducted under this section, the commission shall determine whether to recommend that the voters retain the judge.
 - (b)
 - (i) If a judge meets the minimum performance standards established in accordance with Section 78A-12-205, there is a rebuttable presumption that the commission will recommend the voters retain the judge.
 - (ii) If a judge fails to meet the minimum performance standards established in accordance with Section 78A-12-205, there is a rebuttable presumption that the commission will recommend the voters not retain the judge.
 - (c) The commission may elect to make no recommendation on whether the voters should retain a judge if the commission determines that the information concerning the judge is insufficient to make a recommendation.
 - (d)
 - (i) If the commission deviates from a presumption for or against recommending the voters retain a judge or elects to make no recommendation on whether the voters should retain a judge, the commission shall provide a detailed explanation of the reason for that deviation or election in the commission's report under Section 78A-12-206.
 - (ii) If the commission makes no recommendation because of a tie vote, the commission shall note that fact in the commission's report.
- (5)
- (a) The commission shall allow a judge who is the subject of a judicial performance retention evaluation and who has not passed one or more of the minimum performance standards on the retention evaluation to appear and speak at any commission meeting during which the judge's judicial performance evaluation is considered.
 - (b) The commission may invite any judge to appear before the commission to discuss concerns about the judge's judicial performance.
 - (c)
 - (i) The commission may meet in a closed meeting to discuss a judge's judicial performance evaluation by complying with Title 52, Chapter 4, Open and Public Meetings Act.
 - (ii) The commission may meet in an electronic meeting by complying with Title 52, Chapter 4, Open and Public Meetings Act.
 - (d) Any record of an individual commissioner's vote on whether to recommend that the voters retain a judge is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.
 - (e)
 - (i) A member of the commission, including a member of the Utah State Bar, may not be disqualified from voting on whether to recommend that the voters retain a judge solely because the member appears before the judge as an attorney, a fact witness, or an expert, so long as the member is not a litigant in a case pending before the judge.
 - (ii) Notwithstanding Subsection (5)(e)(i), a member of the commission shall disclose any conflicts of interest with the judge being reviewed to the other members of the commission before the deliberation and vote of whether to recommend that a judge be retained or not be retained.

- (iii) Information disclosed under this Subsection (5)(e) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.
 - (f) The commission may only disclose the final commission vote on whether or not to recommend that the voters retain a judge.
- (6)
- (a) If the Utah Supreme Court issues a public sanction of a judge after the commission makes a decision on whether to recommend the judge for retention, but before the publication of the voter information pamphlet in accordance with Section 20A-7-702, the commission may elect to reconsider the commission's recommendation.
 - (b) The commission shall invite the judge described in Subsection (6)(a) to appear before the commission during a closed meeting for the purpose of reconsidering the commission's recommendation.
 - (c) The judge described in Subsection (6)(a) may provide a written statement, not to exceed 100 words, that shall be included in the judge's evaluation report.
 - (d) The commission shall include in the judge's evaluation report:
 - (i) the date of the reconsideration;
 - (ii) any change in the decision of whether to recommend that the voters retain the judge; and
 - (iii) a brief statement explaining the reconsideration.
 - (e) The commission shall submit revisions to the judge's evaluation report to the lieutenant governor by no later than August 31 of a regular general election year for publication in the voter information pamphlet, and publish the revisions on the commission's website, and through any other means the commission considers appropriate and within budgetary constraints.
- (7)
- (a) The commission shall compile a midterm report of the commission's judicial performance evaluation of a judge.
 - (b) The midterm report of a judicial performance evaluation shall include information that the commission considers appropriate for purposes of judicial self-improvement.
 - (c) The report shall be provided to the evaluated judge, the presiding judge of the district in which the evaluated judge serves, and the Judicial Council. If the evaluated judge is the presiding judge, the midterm report shall be provided to the chair of the board of judges for the court level on which the evaluated judge serves.
- (d)
- (i) The commission may provide a partial midterm evaluation to a judge whose appointment date precludes the collection of complete midterm evaluation data.
 - (ii) For a newly appointed judge, a midterm evaluation is considered partial when the midterm evaluation is missing a respondent group, including attorneys, court staff, court room observers, or intercept survey respondents.
 - (iii) A judge who receives partial midterm evaluation data may receive a statement in acknowledgment of that fact on the judge's voter information pamphlet page.
 - (iv) On or before the beginning of the retention evaluation cycle, the commission shall inform the Judicial Council of the name of any judge who receives a partial midterm evaluation.
- (8) The commission shall identify a judge whose midterm evaluation:
- (a) fails to meet minimum performance standards in accordance with Section 78A-12-205 or as established by rule; or
 - (b) otherwise demonstrates to the commission that the judge's performance would be of such concern if the performance occurred in a retention evaluation that the judge would be invited to appear before the commission in accordance with Subsection (5)(b).

- (9) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the evaluation required by this section.

Amended by Chapter 81, 2017 General Session
Amended by Chapter 374, 2017 General Session

78A-12-204 Judicial performance survey.

- (1) A third party under contract to the commission shall conduct, on an ongoing basis during the judge's term in office, the judicial performance survey required by Section 78A-12-203 concerning a judge who is subject to a retention election.
- (2)
- (a) The judicial performance survey shall include as respondents a sample of each of the following groups as applicable:
- (i) attorneys who have appeared before the judge as counsel;
 - (ii) jurors who have served in a case before the judge; and
 - (iii) court staff who have worked with the judge.
- (b) Only a respondent under Subsection (2)(a)(i) who is admitted to practice law in the state and in good standing with the Utah State Bar may evaluate a judge's legal ability under Subsection (7)(a).
- (3) The commission may include an additional classification of respondents if the commission:
- (a) considers a survey of that classification of respondents helpful to voters in determining whether to vote to retain a judge; and
 - (b) establishes the additional classification of respondents by rule.
- (4) All survey responses are confidential, including comments included with a survey response.
- (5) If the commission provides information to a judge or the Judicial Council, the commission shall provide the information in such a way as to protect the anonymity of a survey respondent.
- (6) A survey shall be provided to a potential survey respondent within 30 days of the day on which the case in which the person appears in the judge's court is closed, exclusive of any appeal, except for court staff and attorneys, who may be surveyed at any time during the survey period.
- (7) Survey categories shall include questions concerning a judge's:
- (a) legal ability, including the following:
 - (i) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;
 - (ii) attentiveness to factual and legal issues before the court;
 - (iii) adherence to precedent and ability to clearly explain departures from precedent;
 - (iv) grasp of the practical impact on the parties of the judge's rulings, including the effect of delay and increased litigation expense;
 - (v) ability to write clear judicial opinions; and
 - (vi) ability to clearly explain the legal basis for judicial opinions;
 - (b) judicial temperament and integrity, including the following:
 - (i) demonstration of courtesy toward attorneys, court staff, and others in the judge's court;
 - (ii) maintenance of decorum in the courtroom;
 - (iii) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the judicial system;
 - (iv) preparedness for oral argument;
 - (v) avoidance of impropriety or the appearance of impropriety;
 - (vi) display of fairness and impartiality toward all parties; and

- (vii) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions; and
- (c) administrative performance, including the following:
 - (i) management of workload;
 - (ii) sharing proportionally the workload within the court or district; and
 - (iii) issuance of opinions and orders without unnecessary delay.
- (8) If the commission determines that a certain survey question or category of questions is not appropriate for a respondent group, the commission may omit that question or category of questions from the survey provided to that respondent group.
- (9)
 - (a) The survey shall allow respondents to indicate responses in a manner determined by the commission, which shall be:
 - (i) on a numerical scale from one to five; or
 - (ii) in the affirmative or negative, with an option to indicate the respondent's inability to respond in the affirmative or negative.
 - (b)
 - (i) To supplement the responses to questions on either a numerical scale or in the affirmative or negative, the commission may allow respondents to provide written comments.
 - (ii) The executive director may not provide the commission a comment that would be prohibited in relation to taking an employment action under federal or state law.
- (10) The commission shall compile and make available to each judge that judge's survey results with each of the judge's judicial performance evaluations.
- (11) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the judicial performance survey.

Amended by Chapter 81, 2017 General Session
Amended by Chapter 374, 2017 General Session

78A-12-205 Minimum performance standards.

- (1) The commission shall establish minimum performance standards requiring that:
 - (a) the judge have no more than one public sanction issued by the Utah Supreme Court during the judge's current term; and
 - (b) the judge receive a minimum score on the judicial performance survey as follows:
 - (i) an average score of no less than 65% on each survey category as provided in Subsection 78A-12-204(7); and
 - (ii) if the commission includes a question on the survey that does not use the numerical scale, the commission shall establish the minimum performance standard for all questions that do not use the numerical scale to be substantially equivalent to the standard required under Subsection (1)(b)(i).
- (2) The commission may establish an additional minimum performance standard if the commission by at least two-thirds vote:
 - (a) determines that satisfaction of the standard is necessary to the satisfactory performance of the judge; and
 - (b) adopts the standard.
- (3) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a minimum performance standard.

Amended by Chapter 81, 2017 General Session

78A-12-206 Publication of the judicial performance evaluation -- Response by judge.

- (1)
 - (a) The commission shall compile a retention report of its judicial performance evaluation of a judge.
 - (b) The report of a judicial performance evaluation nearest the judge's next scheduled retention election shall be provided to the judge at least 45 days before the last day on which the judge may file a declaration of the judge's candidacy in the retention election.
 - (c) A report prepared in accordance with Subsection (1)(b) and information obtained in connection with the evaluation becomes a public record under Title 63G, Chapter 2, Government Records Access and Management Act, on the day following the last day on which the judge who is the subject of the report may file a declaration of the judge's candidacy in the judge's scheduled retention election if the judge declares the judge's candidacy for the retention election.
 - (d) Information collected and a report that is not public under Subsection (1)(c) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.
- (2) Within 15 days of receiving a copy of the commission's report under Subsection (1)(b):
 - (a) a judge who is the subject of an unfavorable retention recommendation under this section may:
 - (i) provide a written response to the commission about the report; and
 - (ii) request an interview with the commission for the purpose of addressing the report; and
 - (b) a judge who is the subject of a favorable retention recommendation under this section may provide a written response to the commission about the commission's report.
- (3)
 - (a) After receiving a response from a judge in any form allowed by Subsection (2), the commission may meet and reconsider its decision to recommend the judge not be retained.
 - (b) If the commission does not change its decision to recommend the judge not be retained, the judge may provide a written statement, not to exceed 100 words, that shall be included in the commission's report.
- (4) The retention report of a judicial performance evaluation shall include:
 - (a) the results of the judicial performance survey, in both raw and summary form;
 - (b) information concerning the judge's compliance with the minimum performance standards, including stating how many of the minimum performance standards the judge met;
 - (c) information concerning any public discipline that a judge has received that is not subject to restrictions on disclosure under Title 78A, Chapter 11, Judicial Conduct Commission;
 - (d) a narrative concerning the judge's performance;
 - (e) the commission's recommendation concerning whether the judge should be retained, or the statement required of the commission if it declines to make a recommendation;
 - (f) the number of votes for and against the commission's recommendation; and
 - (g) any other information the commission considers necessary to include in the report to explain the performance standards and the recommendation made.
- (5)
 - (a) The commission may not include in its retention report specific information concerning an earlier judicial performance evaluation.
 - (b) The commission may refer to information from an earlier judicial performance evaluation concerning the judge in the commission's report only if necessary to explain performance in the current reporting period and giving primary emphasis to the information gathered during the current reporting period.

- (6) The retention report of the commission's judicial performance evaluation shall be made publicly available on an Internet website.
- (7) The commission may make the report of the judicial performance evaluation immediately preceding the judge's retention election publicly available through other means within budgetary constraints.
- (8) The commission shall provide a summary of the judicial performance evaluation for each judge to the lieutenant governor for publication in the voter information pamphlet in the manner required by Title 20A, Chapter 7, Issues Submitted to the Voters.
- (9) The commission shall provide the Judicial Council with:
 - (a) the judicial performance survey results for each judge; and
 - (b) a copy of the retention report of each judicial performance evaluation.
- (10) The Judicial Council shall provide information obtained concerning a judge under Subsection (9) to the subject judge's presiding judge, if any.

Amended by Chapter 374, 2017 General Session

78A-12-207 Evaluation of justice court judges.

- (1) The Judicial Performance Evaluation Commission shall:
 - (a) conduct a performance evaluation for each justice court judge in the third and fifth year of the justice court judge's term;
 - (b) classify each justice court judge into one of the following three categories:
 - (i) full evaluation;
 - (ii) midlevel evaluation; or
 - (iii) basic evaluation; and
 - (c) establish evaluation criteria for each of the three categories.
- (2) A full evaluation justice court judge shall be subject to the requirements of this chapter.
- (3) A midlevel evaluation justice court judge shall be governed by this chapter, except as provided below:
 - (a) the commission shall administer an intercept survey periodically outside the courtroom of the evaluated justice court judge in lieu of the survey specified in Section 78A-12-204; and
 - (b) courtroom observation may not be conducted for midlevel evaluation justice court judges.
- (4) A basic evaluation justice court judge shall be governed by this chapter, except as provided below:
 - (a) basic evaluation justice court judges shall comply with minimum performance standards for judicial education, judicial conduct, cases under advisement, and any other standards the commission may promulgate by administrative rule; and
 - (b) courtroom observation and surveys may not be conducted for basic evaluation justice court judges.

Amended by Chapter 81, 2017 General Session