

**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

***Superseded 7/1/2024***

**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

***Effective 7/1/2024***

**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.
- (3) "Courts" mean all courts of this state, including all courts of record and not of record.
- (4) "Judicial Council" means the Judicial Council established by Utah Constitution, Article VIII, Section 12.

Amended by Chapter 394, 2023 General Session

***Superseded 7/1/2024***

**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

***Effective 7/1/2024***

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

- (1) The Judicial Council is 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) one member elected by the judges of the Business and Chancery Court;
  - (e) six members elected by the judges of the district courts;
  - (f) three members elected by the judges of the juvenile courts;
  - (g) three members elected by the justice court judges; and
  - (h) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Utah State 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 Judicial Council and chief administrative officer for the courts.
  - (b) The chief justice shall vote only in the case of a tie.
- (4)
- (a) All members of the Judicial Council shall serve for three-year terms.
  - (b) If a Judicial 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.
  - (c) In courts having more than one member, the members shall be elected to staggered terms.
  - (d) The individual elected by the Board of Commissioners under Subsection (1)(h) may complete a three-year term of office on the Judicial Council even though the individual ceases to be a member or ex officio member of the Board of Commissioners.
  - (e) The individual elected by the Board of Commissioners under Subsection (1)(h) shall be an active member of the Utah State Bar in good standing for the entire term of the Judicial Council.
  - (f) Elections are held under rules made by the Judicial Council.
- (5)
- (a) The Judicial Council is responsible for the development of uniform administrative policy for the courts throughout the state.
  - (b) The presiding officer of the Judicial Council is responsible for the implementation of the policies developed by the Judicial Council and for the general management of the courts, with the aid of the state court administrator.
  - (c) The Judicial Council has authority and responsibility to:
    - (i) establish and assure compliance with policies for the operation of the courts, including uniform rules and forms; and
    - (ii) 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.
- (6) The Judicial Council shall establish standards for the operation of the courts of the state, including facilities, court security, support services, and staff levels for judicial and support personnel.
- (7) The Judicial Council shall by rule:
- (a) establish the time and manner for destroying court records, including computer records; and
  - (b) establish retention periods for court records.
- (8)
- (a) Consistent with the requirements of judicial office and security policies, the Judicial 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.
- (9)
- (a) The Judicial Council shall:
    - (i) advise judicial officers and employees concerning ethical issues; and
    - (ii) establish procedures for issuing informal and formal advisory opinions on ethical 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.
- (10)

- (a) The Judicial Council shall establish written procedures authorizing the presiding officer of the Judicial 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.
  - (b) The appointment under Subsection (10)(a) shall be:
    - (i) for a specific period of time; and
    - (ii) reported to the Judicial Council.
  - (c) The Judicial Council shall develop the procedures described in this Subsection (10) in accordance with Subsection 78A-2-107(2) regarding the temporary appointment of judges.
- (11)
- (a) The Judicial Council may by rule designate municipalities in addition to those designated by statute as a location of a trial court of record.
  - (b) There shall be at least one court clerk's office open during regular court hours in each county.
  - (c) Any trial court of record may hold court in any municipality designated as a location of a court of record.
- (12) The Judicial Council shall by rule determine whether the administration of a court is 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.
- (13) The Judicial Council may by rule direct that a district court location be administered from another court location within the county.
- (14)
- (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 (14)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection (14)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and federal law, regulation, policy, and court rules.
- (15) The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Health and 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 394, 2023 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.
- (2)
  - (a) 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.
  - (b) The presiding officer of the council may issue orders as necessary to assure compliance with uniform administrative practices.

Amended by Chapter 276, 2022 General Session

***Superseded 7/1/2024***

**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

**Effective 7/1/2024**

**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 the Judicial Council:

- (1) the state court administrator shall:
  - (a) organize and administer all of the nonjudicial activities of the courts;
  - (b) assign, supervise, and direct the work of the nonjudicial officers of the courts;
  - (c) implement the standards, policies, and rules established by the Judicial Council;
  - (d) formulate and administer a system of personnel administration, including in-service training programs;
  - (e) prepare and administer the state judicial budget, fiscal, accounting, and procurement activities for the operation of the courts of record;
  - (f) assist justice courts in budgetary, fiscal, and accounting procedures;
  - (g) conduct studies of the business of the courts, including the preparation of recommendations and reports relating to the studies;
  - (h) develop uniform procedures for the management of court business, including the management of court calendars;
  - (i) maintain liaison with the governmental and other public and private groups having an interest in the administration of the courts;
  - (j) establish uniform policy concerning vacations and sick leave for judges and nonjudicial officers of the courts;
  - (k) establish uniform hours for court sessions throughout the state;
  - (l) 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;
  - (m)
    - (i) organize and administer a program of continuing education for judges and support staff, including training for justice court judges; and
    - (ii) ensure that any training or continuing education described in Subsection (1)(m)(i) complies with Title 63G, Chapter 22, State Training and Certification Requirements;
  - (n) provide for an annual meeting for each level of the courts of record and the annual judicial conference; and
  - (o) perform other duties as assigned by the presiding officer of the Judicial Council; and
- (2) with the consent of the presiding officer of the Judicial Council, the state court administrator may:
  - (a) call and appoint a justice or judge of a court of record to serve temporarily as a judge of the Court of Appeals, the Business and Chancery Court, a district court, or a juvenile court; and
  - (b) set reasonable compensation for the service of a justice or judge under Subsection (2)(a).

Amended by Chapter 394, 2023 General Session

**Superseded 7/1/2024**

**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

***Effective 7/1/2024***

**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 Judicial 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, business and chancery court administrator, district court administrator, juvenile court administrator, and justice court administrator.
- (2) The state court administrator shall appoint an appellate court administrator, a business and chancery court administrator, a district court administrator, a juvenile court administrator, and a justice court administrator with the concurrence of the respective boards as established by the Judicial Council.
- (3)
  - (a) 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 a trial court executive in each district.
  - (b) 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.
  - (c) The trial court executive shall supervise the work of all nonjudicial court staff and serve as administrative officer of the district.
- (4) Administrators and assistants appointed under this section are known collectively as the Administrative Office of the Courts.

Amended by Chapter 394, 2023 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 data collection and 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 submit 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)
  - (a) The Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission 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.
  - (b) If the last day of the month is a Saturday, Sunday, or state holiday, the Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the next working day.
- (4) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data on cases involving individuals charged with class A misdemeanors and felonies, broken down by judicial district, to the commission for each preceding calendar year:
  - (a) the number of cases in which a preliminary hearing is set and placed on the court calendar;
  - (b) the median and range of the number of times that a preliminary hearing is continued in cases in which a preliminary hearing is set and placed on the court calendar;
  - (c) the number of cases, and the average time to disposition for those cases, in which only written statements from witnesses are submitted as probable cause at the preliminary hearing;
  - (d) the number of cases, and the average time to disposition for those cases, in which written statements and witness testimony are submitted as probable cause at the preliminary hearing;
  - (e) the number of cases, and the average time to disposition for those cases, in which only witness testimony is submitted as probable cause at the preliminary hearing; and
  - (f) the number of cases in which a preliminary hearing is held and the defendant is bound over for trial.
- (5) The commission shall include the data collected under Subsection (4) in the commission's annual report described in Section 63M-7-205.

Amended by Chapter 441, 2023 General Session

***Superseded 7/1/2024***

**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

**Effective 7/1/2024**

**78A-2-110 Databases 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:
  - (a) the constitution;
  - (b) statute;
  - (c) judicial order;
  - (d) any justice or judge;
  - (e) the Judicial Council;
  - (f) the state court administrator, a district court administrator, trial court executive, or a business and chancery court administrator; or
  - (g) any clerk or administrator in the judicial branch of state government.
- (2) The Judicial Council shall designate an individual from the Judicial Council's staff to maintain a computerized database containing information about all judicial boards.
- (3) The individual designated to maintain the database shall:
  - (a) ensure that the database contains:
    - (i) the name of the judicial board;
    - (ii) the statutory or constitutional authority for the creation of the judicial board;
    - (iii) the court or other judicial entity under whose jurisdiction the judicial board operates or with which the judicial board is affiliated, if any;
    - (iv) the name, address, gender, telephone number, and county of each individual currently serving on the judicial board, along with a notation of all vacant or unfilled positions;
    - (v) the title of the position held by the individual who appointed each member of the judicial board;
    - (vi) 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;
    - (vii) the organization, interest group, profession, local government entity, or geographic area that the member of the judicial board represents, if any;
    - (viii) whether or not the judicial board allocates state or federal funds and the amount of those funds allocated during the last fiscal year;
    - (ix) whether the judicial board is a policy board or an advisory board;
    - (x) whether or not the judicial board has or exercises rulemaking authority; and
    - (xi) any compensation and expense reimbursement that members of the executive board are authorized to receive;
  - (b) make the information contained in the database available to the public upon request;
  - (c) cooperate with other entities of state government to publish the data or useful summaries of the data;
  - (d) 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; and
- (e) distribute copies of the report described in Subsection (3)(d) 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.

Amended by Chapter 394, 2023 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

***Superseded 7/1/2024***

**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

**Effective 7/1/2024**

**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 Business and Chancery Court judges;
  - (d) all appellate court judges; or
  - (e) any combination of Subsections (2)(a) through (d).
- (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.

Amended by Chapter 394, 2023 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

***Superseded 7/1/2024***

**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

***Effective 7/1/2024***

**78A-2-202 Authority of court.**

- (1) A court of this state has the authority necessary to exercise the court's 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.

Amended by Chapter 394, 2023 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

***Superseded 7/1/2024***

**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

***Effective 7/1/2024***

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

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

Amended by Chapter 394, 2023 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

***Superseded 7/1/2024***

**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

***Effective 7/1/2024***

**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 this state 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 the court's 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 the court's 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 394, 2023 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

***Superseded 7/1/2024***

**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

***Effective 7/1/2024***

**78A-2-211 Court days.**

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

Amended by Chapter 394, 2023 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

***Superseded 7/1/2024***

**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

***Effective 7/1/2024***

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

No proceeding in any court of this state 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.

Amended by Chapter 394, 2023 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 26B-4-201.
- (b) "Directions of use" means the same as that term is defined in Section 26B-4-201.
- (c) "Dosing guidelines" means the same as that term is defined in Section 26B-4-201.
- (d) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.
- (e) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.
- (f) "Medical cannabis device" means the same as that term is defined in Section 26B-4-201.
- (g) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or 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 card, recommendation, 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 and Pharmacies;
- (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 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; 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 26B-4-230(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 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or
- (b) Subsection 58-37-3.7(2) or (3).

Amended by Chapter 273, 2023 General Session

Amended by Chapter 317, 2023 General Session

Amended by Chapter 330, 2023 General Session

Amended by Chapter 330, 2023 General Session, (Coordination Clause)

### 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) Five 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 26B-8-128 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 330, 2023 General Session

**Effective 7/1/2024**

**78A-2-301.1 Civil fee for Business and Chancery Court.**

- (1) A party shall pay a fee of \$500 at the time that the party files:
  - (a) a civil complaint or petition in the Business and Chancery Court; or
  - (b) a motion to transfer an action from the district court to the Business and Chancery Court.
- (2) The fee described in Subsection (1) is in addition to any filing fee that a party must pay under Section 78A-2-301.
- (3) All fees collected under this section are paid to the General Fund.

Enacted by Chapter 394, 2023 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 384, 2022 General Session

**78A-2-302 Indigent litigants -- Affidavit.**

- (1) As used in Sections 78A-2-302 through 78A-2-309:

- (a) "Convicted" means:
  - (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental condition, no contest; and
  - (ii) a conviction of any crime or offense.
- (b) "Indigent" means an individual who is financially unable to pay fees and costs or give security.
- (c) "Prisoner" means an individual who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.
- (2) An individual may institute, prosecute, defend, or appeal any cause in a court in this state without prepayment of fees and costs or security if the individual submits an affidavit demonstrating that the individual is indigent.
- (3) A court shall find an individual indigent if the individual's affidavit under Subsection (2) demonstrates:
  - (a) the individual has an income level at or below 150% of the United States poverty level as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services;
  - (b) the individual receives benefits from a means-tested government program, including Temporary Assistance to Needy Families, Supplemental Security Income, the Supplemental Nutrition Assistance Program, or Medicaid;
  - (c) the individual receives legal services from a nonprofit provider or a pro bono attorney through the Utah State Bar; or
  - (d) the individual has insufficient income or other means to pay the necessary fees and costs or security without depriving the individual, or the individual's family, of food, shelter, clothing, or other necessities.
- (4) An affidavit demonstrating that an individual is indigent under Subsection (3)(d) shall contain complete information on the individual's:
  - (a) identity and residence;
  - (b) amount of income, including any government financial support, alimony, or 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.
- (5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the amount of money held in the prisoner's trust account at the time the affidavit under Subsection (2) is executed in accordance with Section 78A-2-305.
- (6) An affidavit of indigency under this section shall state the following:
  - I, (insert name), 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 184, 2023 General Session

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

- (1) An individual may assert by affidavit that an affidavit of indigency under Section 78A-2-302, 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.

Amended by Chapter 272, 2022 General Session

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

- (1)
- (a) Upon the filing of an affidavit of indigency under Section 78A-2-302 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.
  - (b) 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)
- (a) 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.
  - (b) 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 indigent individual as if all the necessary fees and costs had been fully paid.
- (3)
- (a) In cases where an affidavit of indigency under Section 78A-2-302 is filed, the court shall question the individual who filed the affidavit at the time of hearing the cause as to the individual's ability to pay.
  - (b) If the court opines that the individual is reasonably able to pay the costs, the court shall direct the judgment or decree not be entered in favor of that individual until the costs are paid.
  - (c) The order may be cancelled later upon petition if the facts warrant cancellation.

Amended by Chapter 272, 2022 General Session

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

- (1)
- (a) Upon receipt of an affidavit of indigency under Section 78A-2-302 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 indigency 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)
- (i) Upon a filing of an affidavit of indigency under Section 78A-2-302 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.
  - (ii) 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 indigent, 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 indigency, 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 272, 2022 General Session

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

- (1) When an affidavit of indigency under Section 78A-2-302 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 prisoner'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.

Amended by Chapter 272, 2022 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.**

- (1) Nothing in this part shall prevent a justice court judge, clerk, constable, or sheriff from collecting regular fees for all services rendered for the indigent individual, in the event the indigent individual is successful in litigation.
- (2) All fees and costs shall be regularly taxed and included in any judgment recovered by the indigent individual.

- (3) The fees and costs shall be paid to a justice court judge, clerk, constable, or sheriff.
- (4) If the indigent individual fails in the action or appeal, the costs of the action or appeal may be adjudged against the indigent individual.

Amended by Chapter 272, 2022 General Session

**78A-2-310 Report by Judicial Council on court fees.**

- (1) As used in this section:
  - (a) "Cost" means the direct and indirect costs and expenses for providing the good or service for which a fee is charged, including:
    - (i) salaries, benefits, contracted labor costs, travel expenses, training expenses, equipment and material costs, depreciation expenses, utility costs, and other overhead costs; and
    - (ii) costs and expenses for administering the fee.
  - (b)
    - (i) "Judiciary" means the Judicial Council, the Supreme Court, the Court of Appeals, a district court, or a juvenile court.
    - (ii) "Judiciary" includes any board, committee, or staff office of the Judicial Council, the Supreme Court, the Court of Appeals, a district court, or a juvenile court.
- (2) Before November 30 of each year, the Judicial Council shall submit a report to the Infrastructure and General Government Appropriations Subcommittee of the Legislature that:
  - (a) includes details on:
    - (i) the types of fees charged and collected by the Judiciary;
    - (ii) the methods used to determine the amount of each fee charged and collected by the Judiciary;
    - (iii) the Judiciary's estimated cost related to each fee;
    - (iv) whether each fee is intended to cover the Judiciary's cost related to the fee; and
    - (v) the number of fee waivers granted by the Judiciary for each type of fee charged and collected by the Judiciary; and
  - (b) include any recommendations regarding fees charged and collected by the Judiciary.
- (3) If the Judicial Council recommends that the Legislature create a fee or modify an existing fee under Subsection (2)(b), the Judicial Council shall include the following information with the recommendation:
  - (a) the title or purpose of the fee;
  - (b) the present amount of the fee;
  - (c) the proposed amount of the fee;
  - (d) the percent that the fee will have increased or decreased if the Legislature approves the modification of the fee;
  - (e) the estimated total annual revenue and total estimated annual revenue change that will result from the creation or modification of the fee;
  - (f) the account or fund into which the fee will be deposited;
  - (g) the reason for the creating or modifying the fee;
  - (h) the estimated number of persons to be charged the fee;
  - (i) the Judiciary's estimated cost related to the fee; and
  - (j) whether the fee is intended to cover the Judiciary's cost related to the fee.

Enacted by Chapter 428, 2023 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 2, Part 8, 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 80-2a-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.

Amended by Chapter 335, 2022 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 indigent, the court shall follow the procedure and make a determination, as 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 272, 2022 General Session

## **Part 8 Guardian Ad Litem**

### **78A-2-801 Definitions.**

As used in this part:

- (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 80-2-201.
- (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.

Amended by Chapter 334, 2022 General Session

***Superseded 7/1/2024***

**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, or 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 36-33-102 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 under Section 78A-2-705.
- (4) A contract of employment or independent contract described in 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.

Amended by Chapter 334, 2022 General Session

***Effective 7/1/2024***

**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(14).
- (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, or 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 36-33-102 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 under Section 78A-2-705.
- (4) A contract of employment or independent contract described in 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.

Amended by Chapter 394, 2023 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 80-2a-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 80-3-307;
  - (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 indigency 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 caseworker, 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 caseworker.
- (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 caseworker 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.

Amended by Chapter 280, 2023 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



