

## **Chapter 5 District Court**

### **Part 1 General Provisions**

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

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

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78A-5-102 Jurisdiction -- Appeals.**

- (1) The district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law.
- (2) The district court judges may issue all extraordinary writs and other writs necessary to carry into effect their orders, judgments, and decrees.
- (3) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.
- (4) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.
- (5) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed pursuant to Section 78A-8-106.
- (6) Appeals from the final orders, judgments, and decrees of the district court are under Sections 78A-3-102 and 78A-4-103.
- (7) The district court has jurisdiction to review:
  - (a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter, in its review of agency adjudicative proceedings; and
  - (b) municipal administrative proceedings in accordance with Section 10-3-703.7.
- (8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if:
  - (a) there is no justice court with territorial jurisdiction;
  - (b) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has not formed and then dissolved, a justice court; or
  - (c) they are included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor.
- (9) If the district court has subject matter jurisdiction pursuant to Subsection (5) or (8), it also has jurisdiction over offenses listed in Section 78A-7-106 even if those offenses are committed by a person 16 years of age or older.
- (10) The district court has jurisdiction of actions under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the case to the district court.

Amended by Chapter 34, 2010 General Session

**78A-5-103 District court case management.**

- (1) The district court of each district shall develop systems of case management.
- (2) The case management systems developed by a district court shall:
  - (a) ensure judicial accountability for the just and timely disposition of cases; and
  - (b) provide for each judge a full judicial work load that accommodates differences in the subject matter or complexity of cases assigned to different judges.
- (3) A district court may establish divisions within the court for the efficient management of different types of cases. The existence of divisions within the court may not:
  - (a) affect the jurisdiction of the court nor the validity of court orders; or
  - (b) impede public access to the courts.

Renumbered and Amended by Chapter 3, 2008 General Session

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

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

Renumbered and Amended by Chapter 3, 2008 General Session

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

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

Renumbered and Amended by Chapter 3, 2008 General Session

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

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

- (6) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge.

Renumbered and Amended by Chapter 3, 2008 General Session

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

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

- (d) procedure for timely judicial review of recommendations and orders made by court commissioners.

Renumbered and Amended by Chapter 3, 2008 General Session

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

The clerk of the district court shall:

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

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-5-109 Costs of system.**

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

Renumbered and Amended by Chapter 3, 2008 General Session

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

- (1) Except as provided in this section, district court fines and forfeitures collected for violation of state statutes shall be paid to the state treasurer.
- (2) Fines and forfeitures collected by the court for violation of a state statute or county or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the state treasurer and 1/2 to the treasurer of the state or local governmental entity which prosecutes or which would prosecute the violation.
- (3) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code of Utah, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, shall be paid to the state treasurer.
  - (a) For violations of Title 23, Wildlife Resources Code of Utah, the state treasurer shall allocate 85% to the Division of Wildlife Resources and 15% to the General Fund.
  - (b) For violations of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the state treasurer shall allocate 85% to the Division of Parks and Recreation and 15% to the General Fund.

- (4) Fines and forfeitures collected for violation of Section 72-7-404 or 72-7-406, less fees established by the Judicial Council, shall be paid to the state treasurer for deposit in the B and C road account. Fees established by the Judicial Council shall be deposited in the state General Fund. Money deposited in the class B and C road account is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and C road funds.
- (5)
  - (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(8)(b) shall be remitted:
    - (i) 60% to the state treasurer to be deposited in the Transportation Fund; and
    - (ii) 40% in accordance with Subsection (2).
  - (b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(8)(c) shall be remitted:
    - (i) 50% to the state treasurer to be deposited in the Transportation Fund; and
    - (ii) 50% in accordance with Subsection (2).
- (6) Fines and forfeitures collected for any violations not specified in this chapter or otherwise provided for by law shall be paid to the state treasurer.
- (7) Fees collected in connection with civil actions filed in the district court shall be paid to the state treasurer.
- (8) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Renumbered and Amended by Chapter 3, 2008 General Session  
Amended by Chapter 22, 2008 General Session

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

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

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

Renumbered and Amended by Chapter 3, 2008 General Session

## Part 2 Drug Court

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

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

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

Amended by Chapter 412, 2015 General Session

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

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

Renumbered and Amended by Chapter 3, 2008 General Session

**Part 3  
Veterans Court**

**78A-5-301 Creation of a veterans court program -- Definition of a veterans court program -- Criteria for participation in a veterans court program -- Reporting requirements.**

- (1) The Judicial Council may create a veterans court program in any judicial district or geographic region that demonstrates:
  - (a) the need for a veterans court program; and
  - (b) the existence of a collaborative strategy between the court, prosecutors, defense counsel, corrections, substance abuse treatment services, and the United States Department of Veterans Affairs Veterans Justice Outreach Program to divert veteran offenders.
- (2) The collaborative strategy in each veterans court program shall:
  - (a) include monitoring and evaluation components to measure program effectiveness; and
  - (b) be submitted, for the purpose of coordinating the disbursement of funding, to the Administrative Office of the Courts.
- (3) A veterans court program shall include continuous judicial supervision using a cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment services, and the United States Department of Veterans Affairs Veterans Justice Outreach Program as appropriate to promote public safety, protect participants' due process rights, and integrate veteran diversion treatment programs with the justice system case processing.

- (4) Screening criteria for participation in a veterans court program shall include:
  - (a) a plea to, conviction of, or adjudication for a criminal offense;
  - (b) frequent alcohol and other drug testing, if appropriate;
  - (c) participation in veteran diversion outreach programs, including substance abuse treatment programs where appropriate; and
  - (d) sanctions for noncompliance with diversion and substance abuse programs' requirements.
- (5) The Administrative Office of the Courts shall submit in writing by October 1 of each year, an annual report on each veterans court, including:
  - (a) types of programs;
  - (b) number of veteran participants;
  - (c) outcomes for veteran participants; and
  - (d) recommendations for future veterans court programs, including expansion and funding.

Enacted by Chapter 354, 2015 General Session