

JUDICIAL INFORMATION TO VOTERS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Katherine M. Bryson

AN ACT RELATING TO THE VOTER INFORMATION PAMPHLET; MODIFYING VOTER INFORMATION PAMPHLET REQUIREMENTS CONCERNING INFORMATION ABOUT JUDGES; ~~h~~ **AND** ~~h~~ MAKING TECHNICAL CORRECTIONS ~~h~~ ; **AND PROVIDING A COORDINATION CLAUSE h** .

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

20A-7-702, as last amended by Chapter 171, Laws of Utah 1998

78-3-21, as last amended by Chapters 10, 216 and 232, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-7-702** is amended to read:

20A-7-702. Voter information pamphlet -- Form -- Contents -- Distribution.

(1) The lieutenant governor shall ensure that all information submitted for publication in the voter information pamphlet is:

(a) printed and bound in a single pamphlet;

(b) printed in clear readable type, no less than ten-point, except that the text of any measure may be set forth in eight-point type; and

(c) printed on a quality and weight of paper that best serves the voters.

(2) The voter information pamphlet shall contain the following items in this order:

(a) a cover title page;

(b) an introduction to the pamphlet by the lieutenant governor;

(c) a table of contents;

(d) a list of all candidates for constitutional offices;

(e) a list of candidates for each legislative district;

(f) a 100-word statement of qualifications for each candidate for the office of governor,

28 lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate
 29 to the lieutenant governor's office before July 15 at 5 p.m.;

30 (g) information pertaining to all measures to be submitted to the voters, beginning a new
 31 page for each measure and containing, in the following order for each measure:

32 (i) a copy of the number and ballot title of the measure;

33 (ii) the final vote cast by the Legislature on the measure if it is a measure submitted by the
 34 Legislature or by referendum;

35 (iii) the impartial analysis of the measure prepared by the Office of Legislative Research
 36 and General Counsel;

37 (iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the
 38 measure, the arguments against the measure, and the rebuttal to the arguments against the measure,
 39 with the name and title of the authors at the end of each argument or rebuttal;

40 (v) for each constitutional amendment, a complete copy of the text of the constitutional
 41 amendment, with all new language underlined, and all deleted language placed within brackets;
 42 and

43 (vi) for each initiative qualified for the ballot, a copy of the measure as certified by the
 44 lieutenant governor;

45 (h) a description provided by the Judicial Council of the selection and retention process
 46 for judges of courts of record, including, in the following order:

47 (i) a description of the judicial selection process;

48 (ii) a description of the judicial performance evaluation process;

49 (iii) a description of the judicial retention election process;

50 (iv) a list of the criteria and minimum standards of judicial performance evaluation;

51 (v) the names of the judges standing for retention election; and

52 (vi) for each judge:

53 (A) the counties in which the judge is subject to retention election;

54 (B) a short biography of professional qualifications and a recent photograph;

55 (C) for each standard of performance, a statement identifying whether or not the judge met
 56 the standard and, if not, the manner in which the judge failed to meet the standard;

57 (D) a statement identifying the cumulative number of **h PUBLIC AND FORMAL h** [public]
 57a sanctions **h [of any kind,**

58 ~~whether called "public," "private," "formal," "informal," or some other term,]~~ **DURING THE**
JUDGES

58a **CURRENT TERM h h AND THE IMMEDIATELY PRECEDING TERM h** and the explanation

59 of THE CONDUCT RESULTING FROM EACH SANCTION ~~[each complaint that resulted in each~~
 59a ~~sanction]~~ ~~[ordered by the Supreme Court]~~ ~~[upon review of the~~
 60 ~~order of the Judicial Conduct Commission]~~ that the judge has received ~~[during his current term]~~
 61 ~~[since the judge's initial appointment as a judge]~~ ; and

62 ~~[(E) if the judge received two or more private sanctions during the two years immediately~~
 63 ~~preceding certification, a statement identifying the number of private sanctions received; and]~~

64 ~~[(F)]~~ (E) a statement identifying whether or not the judge was certified by the Judicial
 65 Council;

66 (vii) (A) except as provided in Subsection (2)(h)(vi)(B), for each judge, in graphic format,
 67 the favorable response rating for each attorney, jury, and other survey question used by the Judicial
 68 Council for certification of judges, displayed in 1% increments and identifying the minimum
 69 standards of performance for each question;

70 (B) notwithstanding Subsection (2)(h)(vi)(A), if the sample size for the survey for a
 71 particular judge is too small to provide statistically reliable information in 1% increments, the
 72 survey results for that judge shall be reported as being above or below 70% and a statement by the
 73 surveyor explaining why the survey is statistically unreliable shall also be included;

74 (i) an explanation of ballot marking procedures prepared by the Office of Legislative
 75 Research and General Counsel, indicating the ballot marking procedure used by each county and
 76 explaining how to mark the ballot for each procedure;

77 (j) voter registration information;

78 (k) a list of all county clerks' offices and phone numbers;

79 (l) an index of subjects in alphabetical order; and

80 (m) on the back cover page, a printed copy of the following statement signed by the
 81 lieutenant governor:

82 "I, _____ (print name), Lieutenant Governor of Utah, certify that the measures
 83 contained in this pamphlet will be submitted to the voters of Utah at the election to be held
 84 throughout the state on ____ (date of election), and that this pamphlet is complete and correct
 85 according to law. SEAL

86 Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day of
 87 ____ (month), ____ (year)

88 (signed) _____
 89 Lieutenant Governor"

90 (3) The lieutenant governor shall:

91 (a) ensure that one copy of the voter information pamphlet is placed in one issue of every
92 newspaper of general circulation in the state not more than 40 nor less than 15 days before the day
93 fixed by law for the election;

94 (b) ensure that a sufficient number of printed voter information pamphlets are available
95 for distribution as required by this section;

96 (c) provide voter information pamphlets to each county clerk for free distribution upon
97 request and for placement at polling places; and

98 (d) ensure that the distribution of the voter information pamphlets is completed 15 days
99 before the election.

100 Section 2. Section **78-3-21** is amended to read:

101 **78-3-21. Judicial Council -- Creation -- Members -- Terms and election --**

102 **Responsibilities -- Reports.**

103 (1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution, shall
104 be composed of:

105 (a) the chief justice of the Supreme Court;

106 (b) one member elected by the justices of the Supreme Court;

107 (c) one member elected by the judges of the Court of Appeals;

108 (d) five members elected by the judges of the district courts;

109 (e) two members elected by the judges of the juvenile courts;

110 (f) three members elected by the justice court judges; and

111 (g) a member or ex officio member of the Board of Commissioners of the Utah State Bar
112 who is an active member of the Bar in good standing elected by the Board of Commissioners.

113 (2) (a) The chief justice of the Supreme Court shall act as presiding officer of the council
114 and chief administrative officer for the courts. The chief justice shall vote only in the case of a tie.

115 (b) All members of the council shall serve for three-year terms. If a council member
116 should die, resign, retire, or otherwise fail to complete a term of office, the appropriate constituent
117 group shall elect a member to complete the term of office. In courts having more than one
118 member, the members shall be elected to staggered terms. The person elected to the Judicial
119 Council by the Board of Commissioners shall be a member or ex officio member of the Board of
120 Commissioners and an active member of the Bar in good standing at the time the person is elected.

121 The person may complete a three-year term of office on the Judicial Council even though the
122 person ceases to be a member or ex officio member of the Board of Commissioners. The person
123 shall be an active member of the Bar in good standing for the entire term of the Judicial Council.

124 (c) Elections shall be held under rules made by the Judicial Council.

125 (3) The council is responsible for the development of uniform administrative policy for
126 the courts throughout the state. The presiding officer of the Judicial Council is responsible for the
127 implementation of the policies developed by the council and for the general management of the
128 courts, with the aid of the administrator. The council has authority and responsibility to:

129 (a) establish and assure compliance with policies for the operation of the courts, including
130 uniform rules and forms; and

131 (b) publish and submit to the governor, the chief justice of the Supreme Court, and the
132 Legislature an annual report of the operations of the courts, which shall include financial and
133 statistical data and may include suggestions and recommendations for legislation.

134 (4) (a) The Judicial Council shall make rules establishing:

135 (i) standards for judicial competence; and

136 (ii) a formal program for the evaluation of judicial performance containing the elements
137 of and meeting the requirements of this subsection.

138 (b) The Judicial Council shall ensure that the formal judicial performance evaluation
139 program has improvement in the performance of individual judges, court commissioners, and the
140 judiciary as its goal.

141 (c) The Judicial Council shall ensure that the formal judicial performance evaluation
142 program includes at least all of the following elements:

143 (i) a requirement that judges complete a certain number of hours of approved judicial
144 education each year;

145 (ii) a requirement that each judge certify that he is:

146 (A) physically and mentally competent to serve; and

147 (B) in compliance with the Codes of Judicial Conduct and Judicial Administration; and

148 (iii) a requirement that the judge receive a satisfactory score on questions identified by the
149 Judicial Council as relating to judicial certification on a survey of members of the Bar developed
150 by the Judicial Council in conjunction with the American Bar Association.

151 (d) The Judicial Council shall ensure that the formal judicial performance evaluation

152 program considers at least the following criteria:

- 153 (i) integrity;
- 154 (ii) knowledge;
- 155 (iii) understanding of the law;
- 156 (iv) ability to communicate;
- 157 (v) punctuality;
- 158 (vi) preparation;
- 159 (vii) attentiveness;
- 160 (viii) dignity;
- 161 (ix) control over proceedings; and
- 162 (x) skills as a manager.

163 (e) (i) The Judicial Council shall provide the judicial performance evaluation information
164 and the disciplinary data required by Subsection 20A-7-702(2) to the Lieutenant Governor for
165 publication in the voter information pamphlet.

166 (ii) Not later than August 1 of the year before the expiration of the term of office of a
167 municipal court judge, the Judicial Council shall provide the judicial performance evaluation
168 information required by Subsection 20A-7-702(2) to the appointing authority of a municipal justice
169 court judge.

170 (5) The council shall establish standards for the operation of the courts of the state
171 including, but not limited to, facilities, court security, support services, and staff levels for judicial
172 and support personnel.

173 (6) The council shall by rule establish the time and manner for destroying court records,
174 including computer records, and shall establish retention periods for these records.

175 (7) (a) Consistent with the requirements of judicial office and security policies, the council
176 shall establish procedures to govern the assignment of state vehicles to public officers of the
177 judicial branch.

178 (b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and may
179 be assigned for unlimited use, within the state only.

180 (8) (a) The council shall advise judicial officers and employees concerning ethical issues
181 and shall establish procedures for issuing informal and formal advisory opinions on these issues.

182 (b) Compliance with an informal opinion is evidence of good faith compliance with the

183 Code of Judicial Conduct.

184 (c) A formal opinion constitutes a binding interpretation of the Code of Judicial Conduct.

185 (9) (a) The council shall establish written procedures authorizing the presiding officer of
186 the council to appoint judges of courts of record by special or general assignment to serve
187 temporarily in another level of court in a specific court or generally within that level. The
188 appointment shall be for a specific period and shall be reported to the council.

189 (b) These procedures shall be developed in accordance with Subsection 78-3-24(10)
190 regarding temporary appointment of judges.

191 (10) The Judicial Council may by rule designate municipalities in addition to those
192 designated by statute as a location of a trial court of record. There shall be at least one court clerk's
193 office open during regular court hours in each county. Any trial court of record may hold court in
194 any municipality designated as a location of a court of record. Designations by the Judicial
195 Council may not be made between July 1, 1997, and July 1, 1998.

196 (11) The Judicial Council shall by rule determine whether the administration of a court
197 shall be the obligation of the administrative office of the courts or whether the administrative
198 office of the courts should contract with local government for court support services.

199 (12) The Judicial Council may by rule direct that a district court location be administered
200 from another court location within the county.

201 (13) The Judicial Council shall establish and supervise the Office of Guardian Ad Litem
202 Director, in accordance with the provisions of Sections 78-3a-911 and 78-3a-912, and assure
203 compliance of the guardian ad litem program with state and federal law, regulation, and policy, and
204 court rules.

205 (14) The Judicial Council shall establish and maintain, in cooperation with the Office of
206 Recovery Services within the Department of Human Services, the part of the state case registry that
207 contains records of each support order established or modified in the state on or after October 1,
208 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654A.

208a **h Section 3. Coordination Clause.**

208b **IF THIS BILL AND H.B. 285, JUDICIAL CONDUCT COMMISSION AMENDMENTS AND**
SUPREME

208c **COURT OVERSIGHT OF JUDGES, BOTH PASS, IT IS THE INTENT OF THE LEGISLATURE THAT IN**
208d **ENROLLING H.B. 204, AND IN PREPARING THE DATABASE FOR PUBLICATION, SUBSECTION**
208e **20A-7-702(2)(h)(D) SHALL BE AMENDED TO READ AS FOLLOWS:**

208f **"(D) a statement identifying the CUMULATIVE number of public [sanctions ordered by the**
208g **Supreme Court upon review of the order of the Judicial Conduct Commission] ORDERS ISSUED BY**
208h **THE UTAH SUPREME COURT UNDER UTAH CONSTITUTION ARTICLE VIII, SECTION 13 DURING THE**
208i **JUDGE'S CURRENT TERM AND THE IMMEDIATELY PRECEDING TERM, AND A STATEMENT OF THE**
208j **BASIS FOR EACH ORDER that the judge has received [during his current term]; AND" h**

Legislative Review Note
as of 12-29-99 1:42 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel