

JUDICIAL AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Patrice M. Arent

AN ACT RELATING TO JUDICIAL CODE; CLARIFYING HOW INTEREST ON CRIMINAL PENALTIES IS PAID TO THE GOVERNMENTAL ENTITY TO WHICH THE REVENUE IS PAID; ELIMINATING THE REQUIREMENT OF THE COUNTY ATTORNEY TO MONITOR ACCOUNTS RECEIVABLE; CLARIFYING THE FEE AMOUNT FOR A COUNTERCLAIM WITHOUT A CLAIM FOR MONETARY DAMAGES; CONFORMING CONCURRENT JURISDICTION OF JUVENILE COURT TO THAT OF DISTRICT COURT; CORRECTING A PROVISION REGARDING SURCHARGES ON COMPENSATORY SERVICE; AND INCREASING THE FEE FOR TRANSCRIBING HEARINGS.

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

AMENDS:

15-1-4, as last amended by Chapter 279, Laws of Utah 1999

17-18-1 (Superseded 01/01/01), as last amended by Chapter 302, Laws of Utah 1995

17-18-1 (Effective 01/01/01), as last amended by Chapter 372, Laws of Utah 1995

21-1-5, as last amended by Chapter 309, Laws of Utah 1999

78-3a-104, as last amended by Chapters 99 and 164, Laws of Utah 1999

78-3a-105, as last amended by Chapter 274, Laws of Utah 1998

78-3a-118, as last amended by Chapters 103 and 363, Laws of Utah 1999

78-56-108, as last amended by Chapter 171, Laws of Utah 1998

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

Section 1. Section **15-1-4** is amended to read:

15-1-4. Interest on judgments.

(1) As used in this section, "federal postjudgment interest rate" means the interest rate established for the federal court system under 28 U.S.C. Sec. 1961, as amended.

28 (2) Any judgment rendered on a lawful contract shall conform to the contract and shall
29 bear the interest agreed upon by the parties, which shall be specified in the judgment.

30 (3) (a) Except as otherwise provided by law, other civil and criminal judgments of the
31 district court and justice court shall bear interest at the federal postjudgment interest rate as of
32 January 1 of each year, plus 2%.

33 (b) The postjudgment interest rate in effect at the time of the judgment shall remain the
34 interest rate for the duration of the judgment.

35 (c) The interest on criminal judgments shall be calculated on the total amount of the
36 judgment.

37 (d) Interest paid on state revenue shall be deposited in accordance with Section 63A-8-301.

38 (e) Interest paid on revenue to a county or municipality shall be paid to the general fund
39 of the county or municipality.

40 Section 2. Section **17-18-1 (Effective 01/01/01)** is amended to read:

41 **17-18-1 (Effective 01/01/01). Powers -- Duties of county attorney -- Prohibitions.**

42 (1) (a) In each county which is not within a prosecution district, the county attorney is a
43 public prosecutor and shall:

44 (i) conduct on behalf of the state all prosecutions for public offenses committed within the
45 county, except for prosecutions undertaken by the city attorney under Section 10-3-928 and appeals
46 from them;

47 (ii) institute proceedings before the proper magistrate for the arrest of persons charged with
48 or reasonably suspected of any public offense when in possession of information that the offense
49 has been committed, and for that purpose shall attend court in person or by deputy in cases of
50 arrests when required; and

51 (iii) when it does not conflict with other official duties, attend to all legal business required
52 in the county by the attorney general without charge when the interests of the state are involved.

53 (b) All the duties and powers of public prosecutor shall be assumed and discharged by the
54 county attorney.

55 (2) The county attorney:

56 (a) shall appear and prosecute for the state in the district court of the county in all criminal
57 prosecutions;

58 (b) may, subject to Title 67, Chapter 23, Public Attorneys Act, appear and prosecute in all

59 civil cases in which the state may be interested; and

60 (c) shall render assistance as required by the attorney general in all cases that may be
61 appealed to the Supreme Court and shall prosecute the appeal from any crime charged by the
62 county attorney as a misdemeanor in the district court.

63 (3) The county attorney shall:

64 (a) attend the deliberations of the grand jury;

65 (b) draw all indictments and informations for offenses against the laws of this state within
66 the county;

67 (c) cause all persons indicted or informed against to be speedily arraigned;

68 (d) cause all witnesses for the state to be subpoenaed to appear before the court or grand
69 jury;

70 (e) examine carefully into the sufficiency of all appearance bonds that may be tendered to
71 the district court of the county;

72 (f) upon the order of the court, institute proceedings in the name of the state for recovery
73 upon the forfeiture of any appearance or other bonds running to the state and enforce the collection
74 of them; and

75 (g) perform other duties as required by law.

76 (4) The county attorney shall:

77 [~~(a) receive from the clerk of the district court a record of past-due fines, penalties, costs,
78 and forfeitures and take action to collect the past-due amounts;~~]

79 [~~(b) at the close of every term of the district court prepare a statement of all fines,
80 penalties, and forfeitures accruing to the state that have been collected or received by any officer
81 required to collect or receive them, stating each case and the amount, and shall transmit the list to
82 the state auditor; and]~~

83 [~~(c) proceed against any officer and sureties under this subsection for any neglect of duty.]~~

84 [~~(5) The county attorney shall:]~~

85 (a) ascertain by all practicable means what estate or property within the county has
86 escheated or reverted to the state;

87 (b) require the assessor of taxes of the county to furnish annually a list of all real or
88 personal property that may have so escheated or reverted; and

89 (c) file a copy of the list in the office of the state auditor and of the attorney general.

90 [~~(6)~~] (5) The county attorney shall:

91 (a) each year on the first business day of August file a report with the attorney general
92 covering the preceding fiscal year, stating the number of criminal prosecutions in the district, the
93 character of the offenses charged, the number of convictions, the amount of fines and penalties
94 imposed, and the amount collected; and

95 (b) call attention to any defect in the operation of the laws and suggest amendments to
96 correct the defect.

97 [~~(7)~~] (6) The county attorney shall:

98 (a) appear and prosecute for the state in the juvenile court of the county in any proceeding
99 involving delinquency;

100 (b) represent the state in any proceeding pending before the juvenile court if any rights to
101 the custody of any juvenile are asserted by any third person; and

102 (c) prosecute before the court any person charged with abuse, neglect, or contributing to
103 the delinquency or dependency of a juvenile.

104 [~~(8)~~] (7) Subject to the requirements of Title 67, Chapter 23, Public Attorneys Act, the
105 county attorney shall:

106 (a) defend all actions brought against the county;

107 (b) prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing
108 to the county;

109 (c) give, when required and without fee, an opinion in writing to county, district, and
110 precinct officers on matters relating to the duties of their respective offices;

111 (d) deliver receipts for money or property received in an official capacity and file
112 duplicates with the county treasurer; and

113 (e) on the first Monday of each month file with the auditor an account verified by oath of
114 all money received in an official capacity during the preceding month, and at the same time pay
115 it over to the county treasurer.

116 [~~(9)~~] (8) A county attorney may not:

117 (a) in any manner consult, advise, counsel, or defend within this state any person charged
118 with any crime, misdemeanor, or breach of any penal statute or ordinance;

119 (b) be qualified to prosecute or dismiss in the name of the state any case in which the
120 county attorney has previously acted as counsel for the accused on the pending charge; or

121 (c) in any case compromise any cause or enter a nolle prosequi after the filing of an
122 indictment or information without the consent of the court.

123 [(10)] (9) If at any time after investigation by the district judge involved, the judge finds
124 and recommends that the county attorney in any county is unable to satisfactorily and adequately
125 perform the duties in prosecuting a criminal case without additional legal assistance, the attorney
126 general shall provide the additional assistance.

127 Section 3. Section **17-18-1 (Superseded 01/01/01)** is amended to read:

128 **17-18-1 (Superseded 01/01/01). Powers -- Duties of county attorney -- Prohibitions.**

129 (1) In each county which is not within a prosecution district, the county attorney is a public
130 prosecutor and shall:

131 (a) conduct on behalf of the state all prosecutions for public offenses committed within
132 the county, except for prosecutions undertaken by the city attorney under Section 10-3-928 and
133 appeals from them;

134 (b) institute proceedings before the proper magistrate for the arrest of persons charged with
135 or reasonably suspected of any public offense when in possession of information that the offense
136 has been committed, and for that purpose shall attend court in person or by deputy in cases of
137 arrests when required; and

138 (c) when it does not conflict with other official duties, attend to all legal business required
139 in the county by the attorney general without charge when the interests of the state are involved.

140 All the duties and powers of public prosecutor shall be assumed and discharged by the county
141 attorney.

142 (2) The county attorney:

143 (a) shall appear and prosecute for the state in the district court of the county in all criminal
144 prosecutions;

145 (b) may appear and prosecute in all civil cases in which the state may be interested; and

146 (c) shall render assistance as required by the attorney general in all cases that may be
147 appealed to the Supreme Court and shall prosecute the appeal from any crime charged by the
148 county attorney as a misdemeanor in the district court.

149 (3) The county attorney shall:

150 (a) attend the deliberations of the grand jury;

151 (b) draw all indictments and informations for offenses against the laws of this state within

152 the county;

153 (c) cause all persons indicted or informed against to be speedily arraigned;

154 (d) cause all witnesses for the state to be subpoenaed to appear before the court or grand
155 jury;

156 (e) examine carefully into the sufficiency of all appearance bonds that may be tendered to
157 the district court of the county;

158 (f) upon the order of the court, institute proceedings in the name of the state for recovery
159 upon the forfeiture of any appearance or other bonds running to the state and enforce the collection
160 of them; and

161 (g) perform other duties as required by law.

162 (4) The county attorney shall:

163 ~~[(a) receive from the clerk of the district court a record of past-due fines, penalties, costs,~~
164 ~~and forfeitures and take action to collect the past-due amounts;]~~

165 ~~[(b) at the close of every term of the district court prepare a statement of all fines,~~
166 ~~penalties, and forfeitures accruing to the state that have been collected or received by any officer~~
167 ~~required to collect or receive them, stating each case and the amount, and shall transmit the list to~~
168 ~~the state auditor; and]~~

169 ~~[(c) proceed against any officer and sureties under this subsection for any neglect of duty.]~~

170 ~~[(5) The county attorney shall:]~~

171 (a) ascertain by all practicable means what estate or property within the county has
172 escheated or reverted to the state;

173 (b) require the assessor of taxes of the county to furnish annually a list of all real or
174 personal property that may have so escheated or reverted; and

175 (c) file a copy of the list in the office of the state auditor and of the attorney general.

176 ~~[(6)]~~ (5) The county attorney shall:

177 (a) each year on the first business day of August file a report with the attorney general
178 covering the preceding fiscal year, stating the number of criminal prosecutions in the district, the
179 character of the offenses charged, the number of convictions, the amount of fines and penalties
180 imposed, and the amount collected; and

181 (b) call attention to any defect in the operation of the laws and suggest amendments to
182 correct the defect.

183 [~~(7)~~] (6) The county attorney shall:

184 (a) appear and prosecute for the state in the juvenile court of the county in any proceeding
185 involving delinquency;

186 (b) represent the state in any proceeding pending before the juvenile court if any rights to
187 the custody of any juvenile are asserted by any third person; and

188 (c) prosecute before the court any person charged with abuse, neglect, or contributing to
189 the delinquency or dependency of a juvenile.

190 [~~(8)~~] (7) The county attorney shall:

191 (a) defend all actions brought against the county;

192 (b) prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing
193 to the county;

194 (c) give, when required and without fee, an opinion in writing to county, district, and
195 precinct officers on matters relating to the duties of their respective offices;

196 (d) deliver receipts for money or property received in an official capacity and file
197 duplicates with the county treasurer; and

198 (e) on the first Monday of each month file with the auditor an account verified by oath of
199 all money received in an official capacity during the preceding month, and at the same time pay
200 it over to the county treasurer.

201 [~~(9)~~] (8) A county attorney may not:

202 (a) in any manner consult, advise, counsel, or defend within this state any person charged
203 with any crime, misdemeanor, or breach of any penal statute or ordinance;

204 (b) be qualified to prosecute or dismiss in the name of the state any case in which the
205 county attorney has previously acted as counsel for the accused on the pending charge; or

206 (c) in any case compromise any cause or enter a nolle prosequi after the filing of an
207 indictment or information without the consent of the court.

208 [~~(10)~~] (9) If at any time after investigation by the district judge involved, the judge finds
209 and recommends that the county attorney in any county is unable to satisfactorily and adequately
210 perform the duties in prosecuting a criminal case without additional legal assistance, the attorney
211 general shall provide the additional assistance.

212 Section 4. Section **21-1-5** is amended to read:

213 **21-1-5. Civil fees of the courts of record -- Courts complex design.**

214 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court
215 of record not governed by another subsection is \$120.

216 (b) The fee for filing a complaint or petition is:

217 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,
218 and attorney fees is \$2,000 or less;

219 (ii) \$80 if the claim for damages or amount in interpleader exclusive of court costs,
220 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

221 (iii) \$120 if the claim for damages or amount in interpleader is \$10,000 or more; and

222 (iv) \$80 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4,
223 Separate Maintenance.

224 (c) The fee for filing a small claims affidavit is:

225 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,
226 and attorney fees is \$2,000 or less; and

227 (ii) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
228 interest, and attorney fees is greater than \$2,000.

229 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
230 complaint, or other claim for relief against an existing or joined party other than the original
231 complaint or petition is:

232 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000
233 or less;

234 (ii) \$60 if the claim for relief exclusive of court costs, interest, and attorney fees is greater
235 than \$2,000 and less than \$10,000;

236 (iii) \$90 if the original petition is filed under Subsection (1)(a) [~~or when~~], the claim for
237 relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

238 (iv) \$60 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
239 Chapter 4, Separate Maintenance.

240 (e) The fee for filing a small claims counter affidavit is:

241 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000
242 or less; and

243 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is greater
244 than \$2,000.

245 (f) The fee for depositing funds under Section 57-1-29 when not associated with an action
246 already before the court is determined under Subsection (1)(b) based on the amount deposited.

247 (g) The fee for filing a petition for trial de novo of an adjudication of the justice court or
248 of the small claims department is \$70.

249 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
250 petition for writ of certiorari is \$190.

251 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a petition
252 for expungement is \$50.

253 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

254 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
255 allocated to the Judges' Retirement Trust Fund, as provided in Title 49, Chapter 6, Judges'
256 Retirement Act.

257 (ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be allocated
258 by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account,
259 as provided in Section 63-63a-8.

260 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and
261 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section
262 78-31b-9.

263 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
264 United States is \$25.

265 (l) The fee for filing probate or child custody documents from another state is \$25.

266 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah
267 State Tax Commission is \$30.

268 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
269 or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing
270 officer of this state or of its political subdivisions other than the Utah State Tax Commission, is
271 \$40.

272 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
273 \$25.

274 (o) The fee for filing an award of arbitration for confirmation, modification, or vacation
275 under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is

276 \$25.

277 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$30.

278 (q) The fee for filing any accounting required by law is:

279 (i) \$10 for an estate valued at \$50,000 or less;

280 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

281 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

282 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

283 (v) \$150 for an estate valued at more than \$168,000.

284 (r) The fee for filing a demand for a civil jury is \$50.

285 (s) The fee for filing a notice of deposition in this state concerning an action pending in
286 another state under Utah Rule of Civil Procedure 26 is \$25.

287 (t) The fee for filing documents that require judicial approval but are not part of an action
288 before the court is \$25.

289 (u) The fee for a petition to open a sealed record is \$25.

290 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$20 in addition
291 to any fee for a complaint or petition.

292 (w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9
293 is \$5.

294 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

295 (y) The fee for a certified copy of a document is \$2 per document plus 50 cents per page.

296 (z) The fee for an exemplified copy of a document is \$4 per document plus 50 cents per
297 page.

298 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents
299 and forms and for the search and retrieval of records under Title 63, Chapter 2, Government
300 Records Access and Management Act. Fees under this subsection shall be credited to the court
301 as a reimbursement of expenditures.

302 (bb) There is no fee for services or the filing of documents not listed in this section or
303 otherwise provided by law.

304 (cc) Except as provided in this section, all fees collected under this section are paid to the
305 General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts
306 the pleading for filing or performs the requested service.

307 (dd) The filing fees under this section may not be charged to the state, its agencies, or
308 political subdivisions filing or defending any action. In judgments awarded in favor of the state,
309 its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order
310 the filing fees and collection costs to be paid by the judgment debtor. The sums collected under
311 this subsection shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or
312 other penalty and costs permitted by law.

313 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall
314 transfer all revenues representing the difference between the fees in effect after May 2, 1994, and
315 the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities
316 Construction and Management Capital Projects Fund.

317 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
318 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital
319 Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the
320 development of a courts complex in Salt Lake City.

321 (B) If the Legislature approves funding for construction of a courts complex in Salt Lake
322 City in the 1995 Annual General Session, the Division of Facilities Construction and Management
323 shall use the revenue deposited in the Capital Projects Fund under Subsection (2)(a)(ii) to construct
324 a courts complex in Salt Lake City.

325 (C) After the courts complex is completed and all bills connected with its construction
326 have been paid, the Division of Facilities Construction and Management shall use any monies
327 remaining in the Capital Projects Fund under Subsection (2)(a)(ii) to fund the Vernal District Court
328 building.

329 (iii) The Division of Facilities Construction and Management may enter into agreements
330 and make expenditures related to this project before the receipt of revenues provided for under this
331 subsection.

332 (iv) The Division of Facilities Construction and Management shall:

333 (A) make those expenditures from unexpended and unencumbered building funds already
334 appropriated to the Capital Projects Fund; and

335 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under
336 this Subsection (2).

337 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues

338 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
339 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
340 account.

341 (c) The Division of Finance shall deposit all revenues received from the court
342 administrator into the restricted account created by this section.

343 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer
344 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a
345 court of record to the Division of Facilities Construction and Management Capital Projects Fund.
346 The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine
347 or bail forfeiture paid.

348 (ii) After June 30, 1998, the administrator of the courts shall transfer \$7 of the amount of
349 a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the
350 Division of Finance for deposit in the restricted account created by this section. The division of
351 money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture
352 paid.

353 (3) (a) There is created within the General Fund a restricted account known as the State
354 Courts Complex Account.

355 (b) The Legislature may appropriate monies from the restricted account to the
356 administrator of the courts for the following purposes only:

- 357 (i) to repay costs associated with the construction of the court complex that were funded
358 from sources other than revenues provided for under this Subsection (3); and
- 359 (ii) to cover operations and maintenance costs on the court complex.

360 Section 5. Section **78-3a-104** is amended to read:

361 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

362 (1) Except as otherwise provided by law, the juvenile court has exclusive original
363 jurisdiction in proceedings concerning:

364 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a
365 person younger than 21 years of age who has violated any law or ordinance before becoming 18
366 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;

367 (b) a person 21 years of age or older who has failed or refused to comply with an order of
368 the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st

369 birthday; however, the continuing jurisdiction is limited to causing compliance with existing
370 orders;

371 (c) a minor who is an abused child, neglected child, or dependent child, as those terms are
372 defined in Section 78-3a-103;

373 (d) a protective order for a minor who is alleged to be an abused child or neglected child,
374 except as provided in Section 78-3a-105, and unless the petition is filed by a natural parent or
375 stepparent of the minor against a natural parent or stepparent of the minor;

376 (e) the determination of the custody of a minor or to appoint a guardian of the person or
377 other guardian of a minor who comes within the court's jurisdiction under other provisions of this
378 section;

379 (f) the termination of the legal parent-child relationship in accordance with Part 4,
380 Termination of Parental Rights Act, including termination of residual parental rights and duties;

381 (g) the treatment or commitment of a mentally retarded minor;

382 (h) a minor who is a habitual truant from school;

383 (i) the judicial consent to the marriage of a minor under age 16 upon a determination of
384 voluntariness or where otherwise required by law, employment, or enlistment of a minor when
385 consent is required by law;

386 (j) any parent or parents of a minor committed to a secure youth corrections facility, to
387 order, at the discretion of the court and on the recommendation of a secure youth corrections
388 facility, the parent or parents of a minor committed to a secure youth corrections facility for a
389 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth
390 corrections facility therapist, who has supervision of that parent's or parents' minor, or any other
391 therapist the court may direct, for a period directed by the court as recommended by a secure youth
392 corrections facility;

393 (k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

394 (l) the treatment or commitment of a mentally ill child. The court may commit a child to
395 the physical custody of a local mental health authority or to the legal custody of the Division of
396 Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part
397 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The court may not
398 commit a child directly to the Utah State Hospital;

399 (m) the commitment of a minor in accordance with Section 62A-8-501; and

400 (n) de novo review of final agency actions resulting from an informal adjudicative
401 proceeding as provided in Section 63-46b-15.

402 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive
403 jurisdiction over any traffic offense committed by a minor under 16 years of age and concurrent
404 jurisdiction over all other traffic offenses committed by a minor 16 years of age or older, except
405 that the court shall have exclusive jurisdiction over the following traffic offenses committed by
406 a minor under 18 years of age:

407 (a) Section 76-5-207, automobile homicide;

408 (b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;

409 (c) Section 41-6-45, reckless driving;

410 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer
411 for an extended period of time; and

412 (e) Section 41-6-13.5, fleeing a peace officer.

413 (3) The court also has jurisdiction over traffic offenses that are part of a single criminal
414 episode filed in a petition that contains an offense over which the court has jurisdiction.

415 (4) The juvenile court has jurisdiction over questions of custody, support, and visitation
416 certified to it by the district court pursuant to Section 78-3a-105.

417 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is
418 referred to it by the Division of Child and Family Services or by public or private agencies that
419 contract with the division to provide services to that minor where, despite earnest and persistent
420 efforts by the division or agency, the minor has demonstrated that he:

421 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities
422 to the extent that his behavior or condition endangers his own welfare or the welfare of others; or

423 (b) has run away from home.

424 (6) This section does not restrict the right of access to the juvenile court by private
425 agencies or other persons.

426 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising
427 under Section 78-3a-602.

428 Section 6. Section **78-3a-105** is amended to read:

429 **78-3a-105. Concurrent jurisdiction -- District court and juvenile court.**

430 (1) The district court or other court has concurrent jurisdiction with the juvenile court as

431 follows:

432 (a) when a person who is 18 years of age or older and who is under the continuing
433 jurisdiction of the juvenile court under Section 78-3a-118 violates any federal, state, or local law
434 or municipal ordinance;

435 (b) in adoption proceedings, when the juvenile court has previously entered an order
436 terminating the rights of a parent, and finds that adoption is in the best interest of the minor;
437 adoption proceedings under this section shall be conducted in accordance with the procedures
438 described in Title 78, Chapter 30, Adoption;

439 (c) in establishing paternity and ordering testing for the purposes of establishing paternity,
440 in accordance with Title 78, Chapter 45a, Uniform Act on Paternity, with regard to proceedings
441 initiated under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 4, Termination of
442 Parental Rights Act; and

443 (d) in proceedings brought on behalf of a minor pursuant to Title 30, Chapter 6, Cohabitant
444 Abuse Act, unless the petition is filed by a natural parent or stepparent of the minor against a
445 natural parent or stepparent of the minor.

446 (2) The juvenile court has jurisdiction over petitions to modify a minor's birth certificate
447 if the court otherwise has jurisdiction over the minor.

448 (3) (a) This section does not deprive the district court of jurisdiction to appoint a guardian
449 for a minor, or to determine the support, custody, and visitation of a minor upon writ of habeas
450 corpus or when the question of support, custody, and visitation is incidental to the determination
451 of a cause in the district court.

452 (b) However, if a petition involving the same minor is pending in the juvenile court or the
453 juvenile court has previously acquired continuing jurisdiction over the same minor, the district
454 court shall certify the question of support, custody, and visitation to the juvenile court for
455 determination.

456 (4) When a question is certified to the juvenile court under Subsection (3), the findings and
457 order of the juvenile court judge are the order of the district court.

458 (5) (a) Where a support, custody, or visitation award has been made by a district court in
459 a divorce action or other proceeding, and the jurisdiction of the district court in the case is
460 continuing, the juvenile court may acquire jurisdiction in a case involving the same minor if the
461 minor is dependent, abused, neglected, or otherwise comes within the jurisdiction of the juvenile

462 court under Section 78-3a-104.

463 (b) The juvenile court may, by order, change the custody, support, and visitation rights
464 previously ordered in the district court as necessary to implement the order of the juvenile court
465 for the safety and welfare of the minor. The juvenile court order remains in effect so long as the
466 jurisdiction of the juvenile court continues.

467 (6) When a copy of the findings and order of the juvenile court has been filed with the
468 district court, the findings and order of the juvenile court are binding on the parties to the divorce
469 action as though entered in the district court.

470 Section 7. Section **78-3a-118** is amended to read:

471 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
472 **Enumeration of possible court orders -- Considerations of court.**

473 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the
474 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
475 jurisdiction over the minor. However, in cases within the provisions of Subsection 78-3a-104(1),
476 findings of fact are not necessary.

477 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
478 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided to
479 the school superintendent of the district in which the minor resides or attends school. Notice shall
480 be made to the district superintendent within three days and shall include the specific offenses for
481 which the minor was adjudicated.

482 (2) Upon adjudication the court may make the following dispositions by court order:

483 (a) (i) The court may place the minor on probation or under protective supervision in the
484 minor's own home and upon conditions determined by the court, including compensatory service
485 as provided in Section 78-11-20.7.

486 (ii) The court may place the minor in state supervision with the probation department of
487 the court, under the legal custody of his parent or guardian, the Division of Youth Corrections, or
488 the Division of Child and Family Services.

489 (iii) If the court orders probation or state supervision, the court shall direct that notice of
490 its order be provided to designated persons in the local law enforcement agency and the school or
491 transferee school, if applicable, which the minor attends. The designated persons may receive the
492 information for purposes of the minor's supervision and student safety.

493 (iv) Any employee of the local law enforcement agency and the school which the minor
494 attends who discloses the court's order of probation is not:

495 (A) civilly liable except when the disclosure constitutes fraud or malice as provided in
496 Section 63-30-4; and

497 (B) civilly or criminally liable except when the disclosure constitutes a knowing violation
498 of Section 63-2-801.

499 (b) The court may place the minor in the legal custody of a relative or other suitable
500 person, with or without probation or protective supervision, but the juvenile court may not assume
501 the function of developing foster home services.

502 (c) (i) The court may vest legal custody of the minor in the Division of Child and Family
503 Services, Division of Youth Corrections, or the Division of Mental Health, and may order the
504 Department of Human Services to provide dispositional recommendations and services.

505 (ii) For minors who may qualify for services from two or more divisions within the
506 Department of Human Services, the court may vest legal custody with the department.

507 (iii) Minors who are committed to the custody of the Division of Child and Family
508 Services on grounds other than abuse or neglect are subject to the provisions of Title 78, Chapter
509 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title 62A, Chapter
510 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect. Prior to making a
511 recommendation that the court place a minor in the custody of the Division of Child and Family
512 Services on grounds other than abuse or neglect, the probation department shall provide the
513 division adequate with notice for the division to attend the hearing.

514 (d) (i) The court may commit the minor to the Division of Youth Corrections for secure
515 confinement.

516 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or
517 dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of Youth
518 Corrections.

519 (e) The court may commit the minor, subject to the court retaining continuing jurisdiction
520 over him, to the temporary custody of the Division of Youth Corrections for observation and
521 evaluation for a period not to exceed 45 days, which may be extended up to 15 days at the request
522 of the director.

523 (f) (i) The court may commit the minor to a place of detention or an alternative to

524 detention for a period not to exceed 30 days subject to the court retaining continuing jurisdiction
525 over the minor.

526 (ii) Subsection (2)(f) applies only to those minors adjudicated for an act which if
527 committed by an adult would be a criminal offense or for contempt of court under Section
528 78-3a-901. This commitment may be stayed or suspended upon conditions ordered by the court.

529 (g) The court may vest legal custody of an abused, neglected, or dependent minor in the
530 Division of Child and Family Services or any other appropriate person in accordance with the
531 requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency
532 Proceedings.

533 (h) The court may place the minor on a ranch or forestry camp, or similar facility for care
534 and also for work, if possible, if the person, agency, or association operating the facility has been
535 approved or has otherwise complied with all applicable state and local laws. A minor placed in
536 a forestry camp or similar facility may be required to work on fire prevention, forestation and
537 reforestation, recreational works, forest roads, and on other works on or off the grounds of the
538 facility and may be paid wages, subject to the approval of and under conditions set by the court.

539 (i) The court may order that the minor be required to repair, replace, or otherwise make
540 restitution for damage or loss caused by the minor's wrongful act, including costs of treatment as
541 stated in Section 78-3a-318, and may impose fines in limited amounts.

542 (j) The court may issue orders necessary for the collection of restitution and fines ordered
543 by the court, including garnishments, wage withholdings, and executions.

544 (k) (i) The court may through its probation department encourage the development of
545 employment or work programs to enable minors to fulfill their obligations under Subsection (2)(i)
546 and for other purposes considered desirable by the court.

547 (ii) Consistent with the order of the court, the probation officer may permit the minor
548 found to be within the jurisdiction of the court to participate in a program of work restitution or
549 compensatory service in lieu of paying part or all of the fine imposed by the court. [~~The work
550 restitution or compensatory service permitted by the probation officer may not affect the amount
551 of the surcharge.~~]

552 (l) In violations of traffic laws within the court's jurisdiction, the court may, in addition
553 to any other disposition, restrain the minor from driving for periods of time the court considers
554 necessary and take possession of the minor's driver license. However, proceedings involving an

555 offense under Section 78-3a-506 are governed by that section regarding suspension of driving
556 privileges.

557 (m) (i) When a minor is found within the jurisdiction of the juvenile court under Section
558 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug Paraphernalia
559 Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court shall, in addition to
560 any fines or fees otherwise imposed, order that the minor perform a minimum of 20 hours, but no
561 more than 100 hours, of compensatory service. Satisfactory completion of an approved substance
562 abuse prevention or treatment program may be credited by the court as compensatory service
563 hours.

564 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
565 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court may,
566 upon the first adjudication, and shall, upon a second or subsequent adjudication, order that the
567 minor perform a minimum of 20 hours, but no more than 100 hours of compensatory service, in
568 addition to any fines or fees otherwise imposed. Satisfactory completion of an approved substance
569 abuse prevention or treatment program may be credited by the court as compensatory service
570 hours.

571 (n) The court may order that the minor be examined or treated by a physician, surgeon,
572 psychiatrist, or psychologist or that he receive other special care. For these purposes the court may
573 place the minor in a hospital or other suitable facility.

574 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the interest
575 of the minor, and may appoint a public or private institution or agency as guardian in which legal
576 custody of the minor is vested.

577 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
578 private agency or institution, the court shall give primary consideration to the welfare of the minor.
579 When practicable, the court may take into consideration the religious preferences of the minor and
580 of the minor's parents.

581 (p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable
582 conditions to be complied with by the parents or guardian, the minor, the minor's custodian, or any
583 other person who has been made a party to the proceedings. Conditions may include:

584 (A) visitation by the parents or one parent;

585 (B) restrictions on the minor's associates;

586 (C) restrictions on the minor's occupation and other activities; and

587 (D) requirements to be observed by the parents or custodian.

588 (ii) A minor whose parents or guardians successfully complete a family or other counseling
589 program may be credited by the court for detention, confinement, or probation time.

590 (q) The court may order the minor to be placed in the legal custody of the Division of
591 Mental Health or committed to the physical custody of a local mental health authority, in
592 accordance with the procedures and requirements of Title 62A, Chapter 12, Part 2A, Commitment
593 of Persons Under Age 18 to Division of Mental Health.

594 (r) The court may make an order committing a minor within its jurisdiction to the Utah
595 State Developmental Center if the minor has been found mentally retarded in accordance with the
596 provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility. The
597 procedure applicable in the district courts with respect to judicial commitments to the Utah State
598 Developmental Center shall be followed by the juvenile court in these cases.

599 (s) The court may terminate all parental rights upon a finding of compliance with the
600 provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.

601 (t) The court may make any other reasonable orders for the best interest of the minor or
602 as required for the protection of the public, except that a person younger than 18 years of age may
603 not be committed to jail or prison, and offenses under Section 78-3a-506 are governed by that
604 section regarding suspension of driving privileges.

605 (u) The court may combine several of the above-listed modes of disposition if they are
606 compatible.

607 (v) Before depriving any parent of custody, the court shall give due consideration to the
608 rights of parents concerning their minors. The court may transfer custody of a minor to another
609 person, agency, or institution in accordance with the requirements and procedures of Title 78,
610 Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

611 (w) Except as provided in Subsection (2)(y)(i), an order under this section for probation
612 or placement of a minor with an individual or an agency shall include a date certain for a review
613 of the case by the court. A new date shall be set upon each review.

614 (x) In reviewing foster home placements, special attention shall be given to making
615 adoptable minors available for adoption without delay.

616 (y) (i) The juvenile court may enter an order of permanent custody and guardianship with

617 a relative or individual of a minor where the court has previously acquired jurisdiction as a result
 618 of an adjudication of abuse, neglect, or dependency, excluding cases arising under Subsection
 619 78-3a-105(4).

620 (ii) Such orders remain in effect until the minor reaches majority and are not subject to
 621 review under Section 78-3a-119, but may be modified by petition or motion as provided in Section
 622 78-3a-903.

623 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
 624 permanent orders of custody and guardianship do not expire with a termination of jurisdiction of
 625 the juvenile court.

626 (3) In addition to the dispositions described above, when a minor comes within the court's
 627 jurisdiction he may be given a choice by the judge to serve in the National Guard in lieu of other
 628 sanctions, provided:

629 (a) the minor meets the current entrance qualifications for service in the National Guard
 630 as determined by a recruiter, whose determination is final;

631 (b) the minor is not under the jurisdiction of the court for any act that:

632 (i) would be a felony if committed by an adult;

633 (ii) is a violation of Title 58, Chapter 37, Controlled Substances; or

634 (iii) was committed with a weapon; and

635 (c) the court retains jurisdiction over the minor under conditions set by the juvenile court
 636 judge and agreed upon by the recruiter or the unit the minor is eventually assigned to.

637 Section 8. Section **78-56-108** is amended to read:

638 **78-56-108. Transcripts and copies -- Fees -- Establishment of Court Reporting**
 639 **Technology Account.**

640 (1) The Judicial Council shall by rule provide for a standard page format for transcripts
 641 of court hearings.

642 ~~[(1)]~~ (2) (a) The fee for a transcript of a court session, or any part of a court session, shall
 643 be [80 cents per folio for] \$3.50 per page, which includes the initial preparation of the transcript
 644 and [20 cents per folio for a copy. If two or more persons order copies, the fee shall be 30 cents
 645 per folio for the first copy furnished each person, and 20 cents per folio for each additional copy
 646 furnished each person] one certified copy. The preparer shall deposit the original transcript with
 647 the clerk of the court and provide the person requesting the transcript with the certified copy. The

648 cost of additional copies shall be as provided in Subsection 21-1-5(1). The transcript for an appeal
649 shall be prepared within the time period permitted by the rules of Appellate Procedure. The fee
650 for a transcript prepared within three business days of the request shall be 1-1/2 times the base rate.
651 The fee for a transcript prepared within one business day of the request shall be double the base
652 rate.

653 (b) When a transcript is ordered by the court, the fees shall be paid by the parties to the
654 action in equal proportion or as ordered by the court. The fee for a transcript in a criminal case in
655 which the defendant is found to be impecunious shall be paid pursuant to Section 77-32-305.

656 (c) There is established within the General Fund a restricted account known as the Court
657 Reporting Technology Account. The clerk of the court shall transfer to the state treasurer for
658 deposit into this account all fees received under this section. The state court administrator may
659 draw upon this account for the purchase, development, and maintenance of court reporting
660 technologies and for other expenses necessary for maintaining a verbatim record of court sessions.

661 [~~(2)~~] (3) The fee for the preparation of a transcript of a court hearing by an official court
662 transcriber other than an official court reporter and the fee for the preparation of the transcript by
663 a certified shorthand reporter of a hearing before any referee, master, board, or commission of this
664 state shall be as provided in Subsection [~~(1)~~] (2)(a), and shall be payable to the person preparing
665 the transcript.

Legislative Review Note**as of 1-31-00 6:09 PM**

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

Office of Legislative Research and General Counsel