

JURISDICTION AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Scott Daniels

This act modifies the Judicial Code to clarify that the Supreme Court and Court of Appeals have jurisdiction to hear appeals involving a charge of a first degree felony or capital felony.

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

AMENDS:

78-2-2, as last amended by Chapter 159, Laws of Utah 1996

78-2a-3, as last amended by Chapters 159 and 198, Laws of Utah 1996

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

Section 1. Section **78-2-2** is amended to read:

78-2-2. Supreme Court jurisdiction.

(1) The Supreme Court has original jurisdiction to answer questions of state law certified by a court of the United States.

(2) The Supreme Court has original jurisdiction to issue all extraordinary writs and authority to issue all writs and process necessary to carry into effect its orders, judgments, and decrees or in aid of its jurisdiction.

(3) The Supreme Court has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

- (a) a judgment of the Court of Appeals;
- (b) cases certified to the Supreme Court by the Court of Appeals prior to final judgment by the Court of Appeals;
- (c) discipline of lawyers;
- (d) final orders of the Judicial Conduct Commission;
- (e) final orders and decrees in formal adjudicative proceedings originating with:
 - (i) the Public Service Commission;
 - (ii) the State Tax Commission;
 - (iii) the School and Institutional Trust Lands Board of Trustees;

- (iv) the Board of Oil, Gas, and Mining;
 - (v) the state engineer; or
 - (vi) the executive director of the Department of Natural Resources reviewing actions of the Division of Forestry, Fire and State Lands;
 - (f) final orders and decrees of the district court review of informal adjudicative proceedings of agencies under Subsection (3)(e);
 - (g) a final judgment or decree of any court of record holding a statute of the United States or this state unconstitutional on its face under the Constitution of the United States or the Utah Constitution;
 - (h) interlocutory appeals from any court of record involving a charge of a first degree or capital felony;
 - (i) appeals from the district court involving a conviction or charge of a first degree felony or capital felony;
 - (j) orders, judgments, and decrees of any court of record over which the Court of Appeals does not have original appellate jurisdiction; and
 - (k) appeals from the district court of orders, judgments, or decrees ruling on legislative subpoenas.
- (4) The Supreme Court may transfer to the Court of Appeals any of the matters over which the Supreme Court has original appellate jurisdiction, except:
- (a) capital felony convictions or an appeal of an interlocutory order of a court of record involving a charge of a capital felony;
 - (b) election and voting contests;
 - (c) reapportionment of election districts;
 - (d) retention or removal of public officers;
 - (e) matters involving legislative subpoenas; and
 - (f) those matters described in Subsections (3)(a) through (d).
- (5) The Supreme Court has sole discretion in granting or denying a petition for writ of certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall review

those cases certified to it by the Court of Appeals under Subsection (3)(b).

(6) The Supreme Court shall comply with the requirements of Title 63, Chapter 46b, Administrative Procedures Act, in its review of agency adjudicative proceedings.

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

78-2a-3. Court of Appeals jurisdiction.

(1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

- (a) to carry into effect its judgments, orders, and decrees; or
- (b) in aid of its jurisdiction.

(2) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) the final orders and decrees resulting from formal adjudicative proceedings of state agencies or appeals from the district court review of informal adjudicative proceedings of the agencies, except the Public Service Commission, State Tax Commission, School and Institutional Trust Lands Board of Trustees, Division of Forestry, Fire and State Lands actions reviewed by the executive director of the Department of Natural Resources, Board of Oil, Gas, and Mining, and the state engineer;

(b) appeals from the district court review of:

(i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and

(ii) a challenge to agency action under Section 63-46a-12.1;

(c) appeals from the juvenile courts;

(d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

(e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;

(f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a

conviction of or the sentence for a first degree or capital felony;

(g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;

(h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, visitation, adoption, and paternity;

(i) appeals from the Utah Military Court; and

(j) cases transferred to the Court of Appeals from the Supreme Court.

(3) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

(4) The Court of Appeals shall comply with the requirements of Title 63, Chapter 46b, Administrative Procedures Act, in its review of agency adjudicative proceedings.