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JUDICIARY AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: A. Lamont Tyler

This act modifies provisions relating to the Judiciary. The act changes the way judges declare their intent to stand for retention election. The act also changes who should file the declaration of intent from only judges of courts of record, to all judges and justices. This act clarifies conflicting provisions regarding the depositing of public funds from justice courts and changes the jury service requirement from five days every two years to one day, with exceptions.

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

AMENDS:

20A-12-201, as last amended by Chapter 183, Laws of Utah 1997

78-5-135, as last amended by Chapter 7, Laws of Utah 1991, Second Special Session

78-46-12, as last amended by Chapter 219, Laws of Utah 1992

78-46-15, as last amended by Chapter 219, Laws of Utah 1992

78-46-19, as last amended by Chapter 159, Laws of Utah 1993

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

Section 1. Section **20A-12-201** is amended to read:

20A-12-201. Judicial appointees -- Retention elections.

(1) (a) Each appointee to a court of record is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.

(b) After the first retention election:

(i) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and

(ii) each judge of other courts of record shall be on the regular general election ballot for an unopposed retention election every sixth year.

28 (2) (a) ~~[Each]~~ For the purposes of this section, the term "judge" means a justice or judge
29 of a court of record [who wishes to retain office shall, in the year the justice or judge is subject to
30 a retention election:] or court not of record.

31 ~~[(i) file a declaration of candidacy as if a candidate for multi-county office in accordance~~
32 ~~with Section 20A-9-202; and]~~

33 ~~[(ii) pay a filing fee of \$50.]~~

34 ~~[(b) Each county justice judge who wishes to retain office shall, in the year the justice or~~
35 ~~judge is subject to a retention election:]~~

36 ~~[(i) file a declaration of candidacy as if a candidate for county office in accordance with~~
37 ~~Section 20A-9-202; and]~~

38 ~~[(ii) pay a filing fee of \$25.]~~

39 (b) By May 1 of each regular general election year, a judge who wishes to retain office and
40 is required by law to stand for retention election that year shall file with the state court
41 administrator a declaration of intent to seek retention. The judge shall tender with the declaration
42 a fee of \$50. The declaration shall:

43 (i) state the name of the judge as it is to appear on the ballot;

44 (ii) the office of the judge;

45 (iii) that the judge meets the minimum requirements established by law to hold the office;

46 (iv) that the judge will not knowingly violate any law governing campaigns and elections;

47 and

48 (v) that the judge will qualify for the office, if elected.

49 (c) Any judge who fails to file a declaration of intent to seek retention within the time
50 provided in this section is ineligible for retention election.

51 (d) By June 1 of each regular general election year, the state court administrator shall
52 certify to the lieutenant governor a list of all judges required by law to stand for retention election
53 that year who file a declaration of intent to seek retention. The state court administrator shall remit
54 to the lieutenant governor for deposit in the General Fund the fees tendered by the judges.

55 (e) The list shall contain:

56 (i) the name of judge;

57 (ii) the court in which the judge holds office;

58 (iii) the counties in which the judge is subject to retention election;

59 (iv) the address at which the judge receives mail; and

60 (v) a copy of each judge's declaration of intent to seek retention election.

61 (3) (a) The lieutenant governor shall, by September 1 of each regular general election year:

62 (i) transmit a certified list containing the names of the justices of the Supreme Court and
63 judges of the Court of Appeals [~~declaring their candidacy~~] appearing on the state court
64 administrator's list to the county clerk of each county; and

65 (ii) transmit a certified list containing the names of judges of other courts [~~of record~~
66 ~~declaring their candidacy~~] appearing on the state court administrator's list to the county clerk of
67 each county in the geographic division in which the judge [~~filing the declaration~~] holds office.

68 (b) Each county clerk shall place the names of justices and judges standing for retention
69 election within that county in the nonpartisan section of the ballot.

70 (4) At the general election, the ballots shall contain, as to each justice or judge [~~of any~~
71 ~~court of record~~] to be voted on in the county, the following question:

72 "Shall _____(name of justice or judge) be retained in the
73 office of _____?" (name of office, such as "Justice of the Supreme
74 Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the Third
75 Judicial District;" "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "County
76 Justice Court Judge of (name of county) County")

77 Yes ()

78 No ()."

79 (5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge is
80 retained for the term of office provided by law.

81 (b) If the justice or judge [~~receives~~] does not receive more [~~no~~] yes votes than [~~yes~~] no
82 votes, the justice or judge is not retained, and a vacancy exists in the office on the first Monday
83 in January after the regular general election.

84 (6) A justice or judge not retained is ineligible for appointment to the office for which the
85 justice or judge was defeated until after the expiration of that term of office.

86 Section 2. Section **78-5-135** is amended to read:

87 **78-5-135. Fines, fees, and forfeitures collected -- Deposits and reports -- Special**
88 **account -- Accounting.**

89 (1) (a) Municipal justice courts shall deposit [~~within seven days, or more often if required~~

90 ~~by the governing body, all fines, fees, costs, and forfeitures collected in an account controlled by~~
91 ~~the treasurer of the municipality in which the court is located]~~ public funds in accordance with
92 Section 51-4-2.

93 (b) The treasurer shall report to the city recorder the sums collected and deposited. The
94 recorder shall then apportion and remit the collected proceeds as provided in Section 78-5-116.

95 (c) The municipality shall retain all small claims filing fees including the governmental
96 filing fee for actions filed by the municipality as provided in Section 78-6-14.

97 (2) (a) County justice courts shall deposit [~~within seven days, or more often if required by~~
98 ~~the governing body, all fines, fees, costs, and forfeitures collected to an account controlled by the~~
99 ~~treasurer of the county in which the court is located]~~ public funds in accordance with Section
100 51-4-2.

101 (b) The treasurer shall report to the county auditor the sums collected and deposited. The
102 auditor shall then apportion and remit the collected proceeds as provided in Section 78-5-116.

103 (c) The county shall retain all small claims filing fees including the governmental filing
104 fee for actions filed by the county as provided in Section 78-6-14.

105 (3) Money received or collected on any civil process or order issued from a justice court
106 shall be paid within seven days to the party entitled or authorized to receive it.

107 (4) (a) With the approval of the governing body a trust or revolving account may be
108 established in the name of the justice court and the treasurer for the deposit of money collected
109 including bail, restitution, unidentified receipts, and other money that requires special accounting.

110 (b) Disbursements from this account do not require the approval of the auditor, recorder,
111 or governing body.

112 (c) The account shall be reconciled at least quarterly by the auditor of the governing body.

113 Section 3. Section **78-46-12** is amended to read:

114 **78-46-12. Qualified jury list -- Term of availability -- Juror qualification form --**
115 **Content -- Completion -- Penalties for failure to complete or misrepresentation -- Joint jury**
116 **list for court authorized.**

117 (1) Prospective jurors shall be selected at random from the master jury list and, if qualified,
118 placed on the qualified jury list. A prospective juror shall remain on the qualified jury list for no
119 longer than six months or for such shorter period established by rule of the Judicial Council. The
120 qualified jury list may be used by all courts within the county, but no person shall be summoned

121 to serve as a juror in more than one court.

122 (2) The Judicial Council shall by rule govern the process for the qualification of jurors and
123 the selection of qualified jurors for voir dire.

124 (3) The state court administrator shall develop a standard form for the qualification of
125 jurors. The form shall include:

126 (a) the name, address, and daytime telephone number of the prospective juror;

127 (b) questions suitable for determining whether the prospective juror is competent under
128 statute to serve as a juror; and

129 (c) the person's declaration that the responses to questions on the qualification form are
130 true to the best of the person's knowledge[~~;~~ and].

131 [~~(d) a statement that a willful misrepresentation of a material fact is punishable as a class
132 C misdemeanor.~~]

133 (4) Any prospective juror who fails to return a completed form as instructed shall be
134 directed by the court to appear before the clerk to complete the form. A person who fails to appear
135 is subject to the procedures and penalties in Section 78-46-20.

136 (5) Any person who willfully misrepresents a material fact on a juror qualification form
137 for the purpose of avoiding or securing service as a juror is guilty of a class C misdemeanor.

138 Section 4. Section **78-46-15** is amended to read:

139 **78-46-15. Excuse from jury service.**

140 (1) The court, upon request of a prospective juror or on its own initiative, shall determine
141 on the basis of information provided on the juror qualification form or by interview with the
142 prospective juror, or by other competent evidence, whether the prospective juror should be excused
143 from jury service. The clerk shall enter this determination in the records of the court.

144 (2) A person may be excused from jury service by the court, at its discretion, upon a
145 showing of [~~a physical or mental disability rendering the person incapable of jury service;~~] undue
146 hardship, extreme inconvenience, [~~or~~] public necessity, or that the person is incapable of jury
147 service. The excused period may be for any period the court [~~deems~~] considers necessary.

148 Section 5. Section **78-46-19** is amended to read:

149 **78-46-19. Limitations on jury service.**

150 In any two-year period, a person shall not be required:

151 (1) to serve on more than one grand jury;

152 (2) to serve as both a grand and trial juror; or
153 (3) to attend court for prospective jury service as a trial juror more than [~~five~~] one court
154 [~~days~~] day, except if necessary to complete service in a particular case.

Legislative Review Note
as of 1-15-01 4:25 PM

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

Office of Legislative Research and General Counsel