

JUSTICE COURT JUDGES

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Beverly Ann Evans

This act modifies the Judicial Code as it pertains to county justice court judges. It eliminates the retention election for county justice court judges and requires their reappointment by the county legislative body.

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

AMENDS:

78-3-21, as last amended by Chapter 221, Laws of Utah 2000

78-5-134, as last amended by Chapter 71, Laws of Utah 2001

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

Section 1. Section **78-3-21** is amended to read:

78-3-21. Judicial Council -- Creation -- Members -- Terms and election -- Responsibilities -- Reports.

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

(a) the chief justice of the Supreme Court;

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

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

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

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

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

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

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



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

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

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

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

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

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

(i) standards for judicial competence; and

(ii) a formal program for the evaluation of judicial performance containing the elements of and meeting the requirements of this Subsection (4).

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

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

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

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

(A) physically and mentally competent to serve; and

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

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

(d) The Judicial Council shall ensure that the formal judicial performance evaluation program considers at least the following criteria:

(i) integrity;

(ii) knowledge;

(iii) understanding of the law;

(iv) ability to communicate;

(v) punctuality;

(vi) preparation;

(vii) attentiveness;

(viii) dignity;

(ix) control over proceedings; and

(x) skills as a manager.

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

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

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

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

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

90 judicial branch.

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

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

95 (b) Compliance with an informal opinion is evidence of good faith compliance with the
96 Code of Judicial Conduct.

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

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

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

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

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

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

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

118 (14) The Judicial Council shall establish and maintain, in cooperation with the Office of
119 Recovery Services within the Department of Human Services, the part of the state case registry that
120 contains records of each support order established or modified in the state on or after October 1,

1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

Section 2. Section **78-5-134** is amended to read:

78-5-134. Justice court judges to be appointed -- Procedure -- Report to Judicial Council -- Vacancy.

(1) As used in this section:

(a) "Appointing authority" means:

(i) the chair of the county commission in counties having the county commission form of county government;

(ii) the county executive in counties having the county executive-council form of government;

(iii) the chair of the city commission, city council, or town council in municipalities having the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(iv) the city manager, in the council-manager optional form of government defined in Section 10-3-1209; and

(v) the mayor, in the council-mayor optional form of government defined in Section 10-3-1209.

(b) "Local legislative body" means:

(i) the county commission or county council; and

(ii) the city commission, city council, or town council.

(2) Justice court judges shall be appointed by the appointing authority and confirmed by a majority vote of the local legislative body.

(3) (a) After a newly appointed justice court judge has been confirmed, the local legislative body shall report the confirmed judge's name to the Judicial Council.

(b) The Judicial Council shall certify the judge as qualified to hold office upon successful completion of the orientation program and upon the written opinion of the county or municipal attorney that the judge meets the statutory qualifications for office.

(c) A justice court judge may not perform judicial duties until certified by the Judicial Council.

(4) Upon the expiration of a county justice court judge's term of office ~~[the judge shall be subject to an unopposed retention election in accordance with the procedures set forth in Section~~

20A-12-201], a county justice court judge may be reappointed by the appointing authority.

(a) If the appointing authority declines to reappoint a county justice court judge, the judge may request a formal hearing before the local legislative body, which shall be granted.

(b) The local legislative body shall determine by majority vote whether there is good cause not to reappoint the county justice court judge.

(c) The decision of the local legislative body is final and not subject to appeal.

(d) In determining whether good cause exists not to reappoint a county justice court judge, the appointing authority and local legislative body shall consider:

(i) whether the judge has been certified as meeting the evaluation criteria for judicial performance established by the Judicial Council; and

(ii) any other factors considered relevant by the appointing authority.

(5) Upon the expiration of a municipal justice court judge's term of office a municipal justice court judge shall be reappointed absent a showing of good cause by the appointing authority.

(a) If an appointing authority asserts good cause to not reappoint a municipal justice court judge, at the request of the judge, the good cause shall be presented at a formal hearing of the local legislative body.

(b) The local legislative body shall determine by majority vote whether good cause exists not to reappoint the municipal justice court judge.

(c) The decision of the local legislative body is not subject to appeal.

(d) In determining whether good cause exists to not reappoint a municipal justice court judge, the appointing authority and local legislative body shall consider:

(i) whether or not the judge has been certified as meeting the evaluation criteria for judicial performance established by the Judicial Council; and

(ii) any other factors considered relevant by the appointing authority.

(6) Before reappointment [~~or retention election~~], each justice court judge shall be evaluated in accordance with the performance evaluation program established in Subsection 78-3-21(4).

(7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of justice court judge, the appointing authority may contract with a justice court judge in the county or an adjacent county to serve as justice court judge.

(b) The contract shall be for the duration of the justice court judge's term of office.

183 (8) Vacancies in the office of justice court judge shall be filled as provided in Section
184 20A-1-506.

Legislative Review Note
as of 1-28-02 9:53 AM

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

Office of Legislative Research and General Counsel