

COURT SECURITY FEE

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Hogue

This act increases court fees to fund the creation of a Court Security Account. The fund is to be used to contract for security at courts across the state, and appropriates funds to the Administrative Office of the Courts for that purpose. This act takes effect on April 1, 2003.

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

AMENDS:

78-7-35, as last amended by Chapters 250 and 329, Laws of Utah 2002

ENACTS:

63-63c-101, Utah Code Annotated 1953

63-63c-102, Utah Code Annotated 1953

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

Section 1. Section **63-63c-101** is enacted to read:

CHAPTER 63c. COURT SECURITY

63-63c-101. Security surcharge -- Application and exemptions -- Deposit in restricted account.

(1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of ~~h~~ ~~[\$13]~~ ~~\$26~~ ~~h~~ shall be assessed on all criminal convictions and delinquency judgments in ~~h~~ ~~[a court]~~ **ALL COURTS** ~~h~~ of record.

(2) The security surcharge may not be imposed upon:

(a) nonmoving traffic violations;

(b) community service; and

(c) penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 78-3a-502.



(3) The security surcharge shall be collected after the surcharge under Section 63-63a-1, but before any fine, and deposited with the state treasurer.

(4) The state treasurer shall deposit the collected security surcharge in the restricted account, Court Security Account, as provided in Section 63-63a-102.

Section 2. Section **63-63c-102** is enacted to read:

63-63c-102. Court Security Account established -- Funding -- Uses.

(1) There is created a restricted account in the General Fund known as the Court Security Account.

(2) The state treasurer shall deposit in the Court Security Account collected monies from the surcharge established in Section 63-63c-101 and from the portion of filing fees established in Subsection 78-7-35(1)(j)(iv).

(3) The Administrative Office of the Courts shall use the allocation to contract for court security.

Section 3. Section **78-7-35** is amended to read:

78-7-35. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is [~~\$140~~] \$153.

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

(i) [~~\$45~~] \$58 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) [~~\$90~~] \$103 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) [~~\$140~~] \$153 if the claim for damages or amount in interpleader is \$10,000 or more; and

(iv) [~~\$80~~] \$93 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

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

(i) [~~\$45~~] \$50 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less; and

(ii) [~~\$70~~] \$75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000.

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

(i) ~~[\$45]~~ \$58 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) ~~[\$70]~~ \$83 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) ~~[\$90]~~ \$103 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) ~~[\$70]~~ \$83 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

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

(i) ~~[\$35]~~ \$40 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less; and

(ii) ~~[\$50]~~ \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000.

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

(g) The fee for filing a petition is:

(i) ~~[\$70]~~ \$83 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) ~~[\$40]~~ \$53 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is ~~[\$190]~~ \$203.

(i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a petition for expungement is ~~[\$50]~~ \$63.

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

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'

Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

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

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

(iv) Five dollars of the fees established by Subsections (1)(c) and (1)(e) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 63-63c-102.

(v) Thirteen dollars of the fees established by Subsections (1)(a), (1)(b), (1)(d), (1)(f), (1)(g), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 63-63c-102.

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

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

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

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

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

(o) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is \$25.

(p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$40.

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

- 121 (i) \$10 for an estate valued at \$50,000 or less;
- 122 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;
- 123 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;
- 124 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and
- 125 (v) \$150 for an estate valued at more than \$168,000.
- 126 (r) The fee for filing a demand for a civil jury is \$75.
- 127 (s) The fee for filing a notice of deposition in this state concerning an action pending in
- 128 another state under Utah Rule of Civil Procedure 26 is \$25.
- 129 (t) The fee for filing documents that require judicial approval but are not part of an
- 130 action before the court is \$25.
- 131 (u) The fee for a petition to open a sealed record is \$25.
- 132 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in
- 133 addition to any fee for a complaint or petition.
- 134 (w) The fee for a petition for authorization for a minor to marry required by Section
- 135 30-1-9 is \$5.
- 136 (x) The fee for a certificate issued under Section 26-2-25 is \$2.
- 137 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
- 138 page.
- 139 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
- 140 per page.
- 141 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
- 142 documents and forms and for the search and retrieval of records under Title 63, Chapter 2,
- 143 Government Records Access and Management Act. Fees under this subsection shall be
- 144 credited to the court as a reimbursement of expenditures.
- 145 (bb) There is no fee for services or the filing of documents not listed in this section or
- 146 otherwise provided by law.
- 147 (cc) Except as provided in this section, all fees collected under this section are paid to
- 148 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
- 149 accepts the pleading for filing or performs the requested service.
- 150 (dd) The filing fees under this section may not be charged to the state, its agencies, or
- 151 political subdivisions filing or defending any action. In judgments awarded in favor of the

state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this subsection shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

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

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

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

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

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

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

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

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

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted

account.

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

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

(ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record or an administrative traffic proceeding in accordance with Section 10-3-703.5 to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture paid.

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

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

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 4. **Appropriation.**

(1) There is appropriated from the Court Security Account for fiscal year 2002-2003, \$550,000 to the Administrative Office of the Courts.

(2) There is appropriated from the Court Security Account for fiscal year 2003-2004, \$2,200,000 to the Administrative Office of the Courts.

Section 5. **Effective date.**

If approved by two-thirds of all members elected to each house, this act takes effect on April 1, 2003.

Legislative Review Note

as of 2-10-03 7:01 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0371

Court Security Fee*13-Feb-03**2:59 PM*

State Impact

It is estimated the bill will increase State revenues by \$2.2 million annually beginning FY 2004.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
Restricted Funds	\$0	\$0	\$2,200,000	\$2,200,000
TOTAL	\$0	\$0	\$2,200,000	\$2,200,000

Individual and Business Impact

Local justice courts will also benefit financially; individuals and organizations will pay higher fees to resolve issues in court.

Office of the Legislative Fiscal Analyst