

JUSTICE COURT JUDGES AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Thomas V. Hatch

This act modifies the Judicial Code as it pertains to justice court judges. It requires them to abide by all administrative policies of the county or municipality in which they are employed.

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

78-5-110, as enacted by Chapter 157, Laws of Utah 1989

ENACTS:

78-5-106.5, Utah Code Annotated 1953

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.

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 judicial branch.

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

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

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

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

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

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

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

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

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

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

(14) The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Human Services, the part of the state case registry that 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 **78-5-106.5** is enacted to read:

78-5-106.5. Justice court judge administrative responsibilities.

(1) Justice court judges shall comply with and ensure that court personnel comply with applicable county or municipal rules and regulations related to personnel, budgets, and other administrative functions.

(2) Failure by the judge to comply with applicable administrative county or municipal rules and regulations may be referred, by the county executive or municipal legislative body, to the state Justice Court Administrator.

(3) Compliance with appropriate administrative requirements shall be considered as part of the Judicial Council's judicial performance evaluation program for justice court judges.

(4) Repeated or willful noncompliance may be referred, by the county executive or municipal legislative body, to the Judicial Conduct Commission.

Section 3. Section **78-5-110** is amended to read:

78-5-110. Compensation and expenses -- Clerical personnel.

(1) The county, city, or town creating or maintaining a justice court shall provide and

compensate clerical personnel to conduct the business of the court.

(2) The selection, supervision, and discipline of court clerical personnel shall be in accordance with local government personnel policies~~[, with the concurrence of the justice court judge]~~.

(3) Clerical personnel are governed by Title 52, Chapter 3, regarding employment of relatives.

(4) The county, city, or town assumes the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council.