

JUDICIARY AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Kay L. McIff

LONG TITLE

General Description:

This bill makes technical changes to the judiciary statutes and conforming changes throughout the code.

Highlighted Provisions:

This bill:

- ▶ clarifies requirements for judicial review of an order of restriction in situations which may pose a threat to public health;
- ▶ clarifies that the district court has appellate jurisdiction over justice and small claims court decisions;
- ▶ clarifies juvenile court jurisdiction;
- ▶ eliminates the requirement that the petitioner on a child protective order notify the court of their current address 30 days before the expiration date;
- ▶ sets a specific time period for a child protective order; and
- ▶ clarifies justice court jurisdiction over minors.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-1106, as last amended by Laws of Utah 2004, Chapter 260

26-6b-3, as last amended by Laws of Utah 2006, Chapter 185

- 30 **26-6b-3.3**, as enacted by Laws of Utah 2006, Chapter 185
- 31 **26-6b-3.4**, as enacted by Laws of Utah 2006, Chapter 185
- 32 **26-6b-4**, as last amended by Laws of Utah 2006, Chapter 185
- 33 **26-6b-5**, as last amended by Laws of Utah 2006, Chapter 185
- 34 **26-6b-6**, as last amended by Laws of Utah 2007, Chapter 38
- 35 **78A-5-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 36 **78A-6-103**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 37 **78A-7-106**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 38 **78B-7-204**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 39 **78B-7-205**, as renumbered and amended by Laws of Utah 2008, Chapter 3

40 REPEALS:

- 41 **78A-7-107**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

44 Section 1. Section **10-3-1106** is amended to read:

45 **10-3-1106. Discharge, suspension without pay, or involuntary transfer -- Appeals**
 46 **-- Board -- Procedure.**

47 (1) An employee to which Section 10-3-1105 applies may not be discharged, suspended
 48 without pay, or involuntarily transferred to a position with less remuneration:

- 49 (a) because of the employee's politics or religious belief; or
- 50 (b) incident to, or through changes, either in the elective officers, governing body, or
 51 heads of departments.

52 (2) (a) If an employee is discharged, suspended for more than two days without pay, or
 53 involuntarily transferred from one position to another with less remuneration for any reason, the
 54 employee may, subject to Subsection (2)(b), appeal the discharge, suspension without pay, or
 55 involuntary transfer to a board to be known as the appeal board, established under Subsection
 56 (7).

57 (b) If the municipality provides an internal grievance procedure, the employee shall

58 exhaust the employee's rights under that grievance procedure before appealing to the board.

59 (3) (a) Each appeal under Subsection (2) shall be taken by filing written notice of the
60 appeal with the municipal recorder within ten days after:

61 (i) if the municipality provides an internal grievance procedure, the employee receives
62 notice of the final disposition of the municipality's internal grievance procedure; or

63 (ii) if the municipality does not provide an internal grievance procedure, the discharge,
64 suspension, or involuntary transfer.

65 (b) (i) Upon the filing of an appeal under Subsection (3)(a), the municipal recorder shall
66 forthwith refer a copy of the appeal to the appeal board.

67 (ii) Upon receipt of the referral from the municipal recorder, the appeal board shall
68 forthwith commence its investigation, take and receive evidence, and fully hear and determine
69 the matter which relates to the cause for the discharge, suspension, or transfer.

70 (4) An employee who is the subject of the discharge, suspension, or transfer may:

71 (a) appear in person and be represented by counsel;

72 (b) have a public hearing;

73 (c) confront the witness whose testimony is to be considered; and

74 (d) examine the evidence to be considered by the appeal board.

75 (5) (a) (i) Each decision of the appeal board shall be by secret ballot, and shall be
76 certified to the recorder within 15 days from the date the matter is referred to it, except as
77 provided in Subsection (5)(a)(ii).

78 (ii) For good cause, the board may extend the 15-day period under Subsection (5)(a)(i)
79 to a maximum of 60 days, if the employee and municipality both consent.

80 (b) If it finds in favor of the employee, the board shall provide that the employee shall
81 receive:

82 (i) the employee's salary for the period of time during which the employee is discharged
83 or suspended without pay; or

84 (ii) any deficiency in salary for the period during which the employee was transferred to
85 a position of less remuneration.

86 (6) (a) A final action or order of the appeal board may be ~~[appealed to]~~ reviewed by the
87 Court of Appeals by filing with that court a ~~[notice of appeal]~~ petition for review.

88 (b) Each ~~[notice of appeal]~~ petition under Subsection (6)(a) shall be filed within 30 days
89 after the issuance of the final action or order of the appeal board.

90 (c) The Court of Appeals' review shall be on the record of the appeal board and for the
91 purpose of determining if the appeal board abused its discretion or exceeded its authority.

92 (7) (a) The method and manner of choosing the members of the appeal board, the
93 number of members, the designation of their terms of office, and the procedure for conducting
94 an appeal and the standard of review shall be prescribed by the governing body of each
95 municipality by ordinance.

96 (b) For a municipality operating under a form of government other than a
97 council-mayor form under Part 12, Optional Forms of Municipal Government Act, an ordinance
98 adopted under Subsection (7)(a) may provide that the governing body of the municipality shall
99 serve as the appeal board.

100 Section 2. Section **26-6b-3** is amended to read:

101 **26-6b-3. Order of restriction.**

102 (1) The department having jurisdiction over the location where an individual or a group
103 of individuals who are subject to restriction are found, may:

104 (a) issue a written order of restriction for the individual or group of individuals pursuant
105 to Subsection 26-1-30(2) or 26A-1-114(1)(b) upon compliance with the requirements of this
106 chapter; and

107 (b) issue a verbal order of restriction for an individual or group of individuals pursuant
108 to Subsection (2)(c).

109 (2) (a) A department's determination to issue an order of restriction shall be based upon
110 the totality of circumstances reported to and known by the department, including:

111 (i) observation;

112 (ii) information that the department determines is credible and reliable information; and

113 (iii) knowledge of current public health risks based on medically accepted guidelines as

114 may be established by the Department of Health by administrative rule.

115 (b) An order of restriction issued by a department must:

116 (i) in the opinion of the public health official, be for the shortest reasonable period of
117 time necessary to protect the public health;

118 (ii) use the least intrusive method of restriction that, in the opinion of the department, is
119 reasonable based on the totality of circumstances known to the health department issuing the
120 order of restriction;

121 (iii) be in writing unless the provisions of Subsection (2)(c) apply; and

122 (iv) contain notice of an individual's rights as required in Section 26-6b-3.3.

123 (c) (i) A department may issue a verbal order of restriction, without prior notice to the
124 individual or group of individuals if the delay in imposing a written order of restriction would
125 significantly jeopardize the department's ability to prevent or limit:

126 (A) the transmission of a communicable or possibly communicable disease that poses a
127 threat to public health;

128 (B) the transmission of an infectious agent or possibly infectious agent that poses a
129 threat to public health; ~~or~~

130 (C) the exposure or possible exposure of a chemical or biological agent that poses a
131 threat to public health; or

132 (D) the exposure or transmission of a condition that poses a threat to public health.

133 (ii) A verbal order of restriction issued under the provisions of Subsection (2)(c)(i):

134 (A) is valid for 24 hours from the time the order of restriction is issued;

135 (B) may be verbally communicated to the individuals or group of individuals subject to
136 restriction by a first responder;

137 (C) may be enforced by the first responder until the department is able to establish and
138 maintain the place of restriction; and

139 (D) may only be continued beyond the initial 24 hours if a written order of restriction is
140 issued pursuant to the provisions of Section 26-6b-3.3.

141 (3) Pending issuance of a written order of restriction under Section 26-6b-3.3, or

142 judicial review of an order of restriction by the district court pursuant to Section 26-6b-6, an
143 individual who is subject to the order of restriction may be required to submit to involuntary
144 examination, quarantine, isolation, or treatment in his home, a hospital, or any other suitable
145 facility under reasonable conditions prescribed by the department.

146 (4) The department that issued the order of restriction shall take reasonable measures,
147 including the provision of medical care, as may be necessary to assure proper care related to the
148 reason for the involuntary examination, treatment, isolation, or quarantine of an individual
149 ordered to submit to an order of restriction.

150 Section 3. Section **26-6b-3.3** is amended to read:

151 **26-6b-3.3. Contents of notice of order of restriction -- Rights of individuals.**

152 (1) A written order of restriction issued by a department shall include the following
153 information:

154 (a) the identity of the individual or a description of the group of individuals subject to
155 the order of restriction;

156 (b) the identity or location of any premises that may be subject to restriction;

157 (c) the date and time for which the restriction begins and the expected duration of the
158 restriction;

159 (d) the suspected communicable disease, infectious, chemical or biological agent, or
160 other condition that poses a threat to public health;

161 (e) the requirements for termination of the order of restriction, such as necessary
162 laboratory reports, the expiration of an incubation period, or the completion of treatment for the
163 communicable disease;

164 (f) any conditions on the restriction, such as limitation of visitors or requirements for
165 medical monitoring;

166 (g) the medical or scientific information upon which the restriction is based;

167 (h) a statement advising of the right to a judicial review of the order of restriction by the
168 district court; and

169 (i) pursuant to Subsection (2), the rights of each individual subject to restriction.

- 170 (2) An individual subject to restriction has the following rights:
- 171 (a) the right to be represented by legal counsel in any judicial review of the order of
172 restriction in accordance with Subsection 26-6b-4(3);
- 173 (b) the right to be provided with prior notice of the date, time, and location of any
174 hearing concerning the order of restriction;
- 175 (c) the right to participate in any hearing, in a manner established by the court based on
176 precautions necessary to prevent additional exposure to communicable or possibly
177 communicable diseases or to protect the public health;
- 178 (d) the right to respond and present evidence and arguments on the individual's own
179 behalf in any hearing;
- 180 (e) the right to cross examine witnesses; and
- 181 (f) the right to review and copy all records in the possession of the department that
182 issued the order of restriction which relate to the subject of the written order of restriction.
- 183 (3) (a) Notwithstanding the provisions of Subsection (1), if a department issues an
184 order of restriction for a group of individuals, the department may modify the method of
185 providing notice to the group or modify the information contained in the notice, if the public
186 health official determines the modification of the notice is necessary to:
- 187 (i) protect the privacy of medical information of individuals in the group; or
- 188 (ii) provide notice to the group in a manner that will efficiently and effectively notify the
189 individuals in the group within the period of time necessary to protect the public health.
- 190 (b) When a department modifies notice to a group of individuals under Subsection
191 (3)(a), the department shall provide each individual in the group with notice that complies with
192 the provisions of Subsection (1) as soon as reasonably practical.
- 193 (4) (a) In addition to the rights of an individual described in Subsections (1) and (2), an
194 individual subject to an order of restriction may not be terminated from employment if the
195 reason for termination is based solely on the fact that the individual is or was subject to an order
196 of restriction.
- 197 (b) The department issuing the order of restriction shall give the individual subject to

198 the order of restriction notice of the individual's employment rights under Subsection (4)(a).

199 (c) An employer in the state, including an employer who is the state or a political
200 subdivision of the state, may not violate the provisions of Subsection (4)(a).

201 Section 4. Section **26-6b-3.4** is amended to read:

202 **26-6b-3.4. Medical records -- Privacy protections.**

203 (1) (a) Health care providers as defined in Section 78-14-3, health care facilities
204 licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and
205 governmental entities, shall, when requested, provide the public health official and the individual
206 subject to an order of restriction, a copy of medical records that are relevant to the order of
207 restriction.

208 (b) The records requested under Subsection (1)(a) shall be provided as soon as
209 reasonably possible after the request is submitted to the health care provider or health care
210 facility, or as soon as reasonably possible after the health care provider or facility receives the
211 results of any relevant diagnostic testing of the individual.

212 (2) (a) The production of records under the provisions of this section is for the benefit
213 of the public health and safety of the citizens of the state. A health care provider or facility is
214 encouraged to provide copies of medical records or other records necessary to carry out the
215 purpose of this chapter free of charge.

216 (b) Notwithstanding the provisions of Subsection (2)(c), a health care facility that is a
217 state governmental entity shall provide medical records or other records necessary to carry out
218 the purposes of this chapter, free of charge.

219 (c) If a health care provider or health care facility does not provide medical records free
220 of charge under the provisions of Subsection (2)(a) or (b), the health care provider or facility
221 may charge a fee for the records that does not exceed the presumed reasonable charges
222 established for workers' compensation by administrative rule adopted by the Labor Commission.

223 (3) Medical records held by a court related to orders of restriction under this chapter
224 shall be sealed by the district court at the conclusion of the case.

225 Section 5. Section **26-6b-4** is amended to read:

226 **26-6b-4. Judicial review by the district court -- Required notice -- Representation**
227 **by counsel -- Conduct of proceedings.**

228 (1) The provisions of this section and Sections 26-6b-5 through 26-6b-7 apply if a
229 department issues an order for restriction, and:

230 (a) an individual subject to the order of restriction refuses to consent to the order of
231 restriction;

232 (b) an individual subject to an order of restriction has withdrawn consent to an order of
233 restriction under the provisions of Subsection 26-6b-3.1(1)(b)(iv)(B); or

234 (c) the department chooses to not attempt to obtain consent to an order of restriction
235 and files an action for judicial review of the order of restriction.

236 (2) (a) If the individual who is subject to an order of restriction is in custody, the
237 department, which is the petitioner, shall provide to the individual written notice of the petition
238 for judicial review of the order of restriction and hearings held pursuant to Sections 26-6b-5
239 through 26-6b-7 as soon as practicable, and shall send the notice to the legal guardian, legal
240 counsel for the parties involved, and any other persons and immediate adult family members
241 whom the individual or the district court designates. The notice shall advise these persons that a
242 hearing may be held within the time provided by this chapter.

243 (b) If the individual has refused to permit release of information necessary for the
244 provision of notice under this Subsection (2), the extent of notice shall be determined by the
245 district court.

246 (c) Notwithstanding the notice requirement in Subsection (2)(a), if the court determines
247 that written notice to each individual in a group of individuals subject to an order of restriction
248 is not practical considering the circumstances of the threat to public health, the court may order
249 the department to provide notice to the individual or group of individuals in a manner
250 determined by the court.

251 (3) (a) If the individual who is subject to an order of restriction is in custody, he shall be
252 afforded an opportunity to be represented by counsel. If neither the individual nor others
253 provide for counsel, the district court shall appoint counsel and allow counsel sufficient time to

254 consult with the individual prior to the hearing. If the individual is indigent, the payment of
255 reasonable [~~attorneys'~~ attorney] fees for counsel, as determined by the district court, shall be
256 made by the county in which the individual resides or was found.

257 (b) The [~~individual, the petitioner, and all other persons to whom notice is required to~~
258 ~~be given shall be afforded an opportunity to~~] parties may appear at the hearings, to testify, and
259 to present and cross-examine witnesses. The district court may, in its discretion, receive the
260 testimony of any other individual.

261 (c) The district court may allow a waiver of the individual's right to appear only for
262 good cause shown, and that cause shall be made a part of the court record.

263 (d) The district court may order that the individual participate in the hearing by
264 telephonic or other electronic means if the individual's condition poses a health threat to those
265 who physically attend the hearing or to others if the individual is transported to the court.

266 (4) The district court may, in its discretion, order that the individual be moved to a
267 more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may
268 transfer the proceedings to any other district court within this state where venue is proper,
269 provided that the transfer will not be adverse to the legal interests of the individual.

270 (5) All persons to whom notice is required to be given may attend the hearings. The
271 district court may exclude from the hearing all persons not necessary for the conduct of the
272 proceedings.

273 (6) All hearings shall be conducted in as informal a manner as may be consistent with
274 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the
275 health of the individual or others required to participate in the hearing.

276 (7) The district court shall receive all relevant and material evidence which is offered,
277 subject to Utah Rules of Evidence.

278 (8) The district court may order law enforcement to assist the petitioner in locating the
279 individuals subject to restriction and enforcing the order of restriction.

280 Section 6. Section **26-6b-5** is amended to read:

281 **26-6b-5. Petition for judicial review of order of restriction -- Court-ordered**

282 **examination period.**

283 (1) (a) A department may petition for a judicial review of the department's order of
284 restriction for an individual or group of individuals who are subject to restriction by filing a
285 written petition with the district court of the county in which the individual or group of
286 individuals reside or are located.

287 (b) (i) The county attorney for the county where the individual or group of individuals
288 reside or are located shall represent the local health department in any proceedings under this
289 chapter.

290 (ii) The Office of the Attorney General shall represent the department when the
291 petitioner is the Department of Health in any proceedings under this chapter.

292 (2) The [~~application~~] petition under Subsection (1) shall be accompanied by:

293 (a) written affidavit of the department stating:

294 (i) a belief the individual or group of individuals are subject to restriction;

295 (ii) a belief that the individual or group of individuals who are subject to restriction are
296 likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately
297 restrained;

298 (iii) this failure would pose a threat to the public health; and

299 (iv) the personal knowledge of the individual's or group of individuals' condition or the
300 circumstances that lead to that belief; and

301 (b) a written statement by a licensed physician indicating the physician finds the
302 individual or group of individuals are subject to restriction.

303 (3) The court shall issue an [~~examination~~] order of restriction requiring the individual or
304 group of individuals to submit to involuntary restriction to protect the public health if the
305 district court finds:

306 (a) there is a reasonable basis to believe that the individual's or group of individuals'
307 condition requires involuntary examination, quarantine, treatment, or isolation pending
308 examination and hearing; or

309 (b) the individual or group of individuals have refused to submit to examination by a

310 health professional as directed by the department or to voluntarily submit to examination,
311 treatment, quarantine, or isolation.

312 (4) If the individual or group of individuals who are subject to restriction are not in
313 custody, the court may make its determination and issue its ~~[examination]~~ order of restriction in
314 an ex parte hearing.

315 (5) At least 24 hours prior to the hearing required by Section 26-6b-6, the department
316 which is the petitioner, shall report to the court, in writing, the opinion of qualified health care
317 providers:

318 (a) regarding whether the individual or group of individuals are infected by or
319 contaminated with:

320 (i) ~~[are afflicted with an infectious]~~ a communicable or possible communicable disease
321 that ~~[is]~~ poses a threat to ~~[the]~~ public health;

322 (ii) ~~[are contaminated with a chemical or biological]~~ an infectious agent or possibly
323 infectious agent that ~~[is]~~ poses a threat to ~~[the]~~ public health; ~~[or]~~

324 (iii) ~~[are in a condition, the exposure to which]~~ a chemical or biological agent that poses
325 a threat to public health; or

326 (iv) a condition that poses a threat to public health;

327 (b) that despite the exercise of reasonable diligence, the diagnostic studies have not
328 been completed;

329 (c) whether the individual or group of individuals have agreed to voluntarily comply
330 with necessary examination, treatment, quarantine, or isolation; and

331 (d) whether the petitioner believes the individual or group of individuals will comply
332 without court proceedings.

333 Section 7. Section **26-6b-6** is amended to read:

334 **26-6b-6. Court determination for an order of restriction after examination**
335 **period.**

336 (1) The district court shall set a hearing regarding the involuntary order of restriction of
337 an individual or group of individuals, to be held within ten business days of the issuance of its

338 ~~[examination]~~ order of restriction issued pursuant to Section 26-6b-5, unless the petitioner
339 informs the district court prior to this hearing that the individual or group of individuals:

- 340 (a) are not subject to restriction; or
- 341 (b) have stipulated to the issuance of an order of restriction.

342 ~~[(2) (a) If the individual or group of individuals are not subject to restriction, the court
343 may, without taking any further action, terminate the proceedings and dismiss the petition.]~~

344 ~~[(b)]~~ (2) If the individual or an individual in a group of individuals has stipulated to the
345 issuance of an order of restriction, the court may issue an order as provided in Subsection (6)
346 for those individuals without further hearing.

347 (3) (a) If the examination report required in Section 26-6b-5 proves the individual or
348 group of individuals are not subject to restriction, the court may without further hearing
349 terminate the proceedings and dismiss the petition.

350 (b) The court may, after a hearing at which the individual or group of individuals are
351 present in person or by telephonic or other electronic means and have had the opportunity to be
352 represented by counsel, extend its ~~[examination]~~ order of restriction for a reasonable period, not
353 to exceed 90 days, if the court has reason to believe the individual or group of individuals are
354 infected by or contaminated with:

355 (i) ~~[are contaminated with a chemical or biological agent]~~ a communicable or possibly
356 communicable disease that [is] poses a threat to [the] public health; [or]

357 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;

358 (iii) a chemical or biological agent that poses a threat to public health; or

359 ~~[(ii) are in]~~ (iv) a condition~~[- the exposure to which]~~ that poses a threat to public
360 health, but, despite the exercise of reasonable diligence the diagnostic studies have not been
361 completed.

362 (4) The petitioner shall, at the time of the hearing, provide the district court with the
363 following items, to the extent that they have been issued or are otherwise available:

- 364 (a) the order of restriction issued by the petitioner;
- 365 (b) admission notes if any individual was hospitalized; and

366 (c) medical records pertaining to the current order of restriction.

367 (5) The information provided to the court under Subsection (4) shall also be provided
368 to the individual's or group of individual's counsel at the time of the hearing, and at any time
369 prior to the hearing upon request of counsel.

370 (6) (a) The district court shall order the individual and each individual in a group of
371 individuals to submit to the order of restriction if, upon completion of the hearing and
372 consideration of the record, it finds by clear and convincing evidence that:

373 (i) the individual or group of individuals are infected with a communicable disease or
374 infectious agent, are contaminated with a chemical or biological agent, or are in a condition[;
375 ~~the exposure to which] that poses a threat to public health[~~; or are in a condition which if~~
376 ~~treatment is not completed the individual or group of individuals will pose a threat to public~~
377 ~~health];~~~~

378 (ii) there is no appropriate and less restrictive alternative to a court order of
379 examination, quarantine, isolation, and treatment, or any of them;

380 (iii) the petitioner can provide the individual or group of individuals with treatment that
381 is adequate and appropriate to the individual's or group of individuals' conditions and needs; and

382 (iv) it is in the public interest to order the individual or group of individuals to submit to
383 involuntary examination, quarantine, isolation, and treatment, or any of them after weighing the
384 following factors:

385 (A) the personal or religious beliefs, if any, of the individual that are opposed to medical
386 examination or treatment;

387 (B) the ability of the department to control the public health threat with treatment
388 alternatives that are requested by the individual;

389 (C) the economic impact for the department if the individual is permitted to use an
390 alternative to the treatment recommended by the department; and

391 (D) other relevant factors as determined by the court.

392 (b) If upon completion of the hearing the court does not find all of the conditions listed
393 in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

394 (7) The order of restriction shall designate the period, subject to Subsection (8), for
395 which the individual or group of individuals shall be examined, treated, isolated, or quarantined.

396 (8) (a) The order of restriction may not exceed six months without benefit of a district
397 court review hearing.

398 (b) The district court review hearing shall be held prior to the expiration of the order of
399 restriction issued under Subsection (7). At the review hearing the court may issue an order of
400 restriction for up to an indeterminate period, if the district court enters a written finding in the
401 record determining by clear and convincing evidence that the required conditions in Subsection
402 (6) will continue for an indeterminate period.

403 Section 8. Section **78A-5-102** is amended to read:

404 **78A-5-102. Jurisdiction -- Appeals.**

405 (1) The district court has original jurisdiction in all matters civil and criminal, not
406 excepted in the Utah Constitution and not prohibited by law.

407 (2) The district court judges may issue all extraordinary writs and other writs necessary
408 to carry into effect their orders, judgments, and decrees.

409 (3) The district court has jurisdiction over matters of lawyer discipline consistent with
410 the rules of the Supreme Court.

411 (4) The district court has jurisdiction over all matters properly filed in the circuit court
412 prior to July 1, 1996.

413 (5) The district court has appellate jurisdiction [~~to adjudicate trials de novo of the~~] over
414 judgments and orders of the justice court as outlined in Section 78A-7-118 and [~~of the~~] small
415 claims [~~department of the district court~~] appeals filed pursuant to Section 78A-8-106.

416 (6) Appeals from the final orders, judgments, and decrees of the district court are under
417 Sections 78A-3-102 and 78A-4-103.

418 (7) The district court has jurisdiction to review:

419 (a) agency adjudicative proceedings as set forth in Title 63, Chapter 46b, Administrative
420 Procedures Act, and shall comply with the requirements of that chapter, in its review of agency
421 adjudicative proceedings; and

422 (b) municipal administrative proceedings in accordance with Section 10-3-703.7.

423 (8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in
424 class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if:

425 (a) there is no justice court with territorial jurisdiction;

426 (b) the offense occurred within the boundaries of the municipality in which the district
427 courthouse is located and that municipality has not formed a justice court; or

428 (c) they are included in an indictment or information covering a single criminal episode
429 alleging the commission of a felony or a class A misdemeanor.

430 (9) If the district court has subject matter jurisdiction pursuant to Subsection (5) or (8),
431 it also has jurisdiction over offenses listed in Section 78A-7-106 even if those offenses are
432 committed by a person 16 years of age or older.

433 ~~[(9)]~~ (10) The district court has jurisdiction of actions under Title 78B, Chapter 7, Part
434 2, Child Protective Orders, if the juvenile court transfers the case to the district court.

435 Section 9. Section **78A-6-103** is amended to read:

436 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

437 (1) Except as otherwise provided by law, the juvenile court has exclusive original
438 jurisdiction in proceedings concerning:

439 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
440 person younger than 21 years of age who has violated any law or ordinance before becoming 18
441 years of age, regardless of where the violation occurred, excluding [~~traffic laws and boating and~~
442 ~~ordinances~~] offenses in Subsection 78A-7-106(2);

443 (b) a person 21 years of age or older who has failed or refused to comply with an order
444 of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's
445 21st birthday; however, the continuing jurisdiction is limited to causing compliance with existing
446 orders;

447 (c) a child who is an abused child, neglected child, or dependent child, as those terms
448 are defined in Section 78A-6-105;

449 (d) a protective order for a child pursuant to the provisions of Title 78B, Chapter 7,

450 Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the
451 juvenile court has entered an ex parte protective order and finds that:

452 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
453 parent of the child who is the object of the petition;

454 (ii) the district court has a petition pending or an order related to custody or
455 parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1,
456 Cohabitant Abuse Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the
457 petitioner and the respondent are parties; and

458 (iii) the best interests of the child will be better served in the district court;

459 (e) appointment of a guardian of the person or other guardian of a minor who comes
460 within the court's jurisdiction under other provisions of this section;

461 (f) the emancipation of a minor in accordance with Part 8, Emancipation;

462 (g) the termination of the legal parent-child relationship in accordance with Part 5,
463 Termination of Parental Rights Act, including termination of residual parental rights and duties;

464 (h) the treatment or commitment of a mentally retarded minor;

465 (i) a minor who is a habitual truant from school;

466 (j) the judicial consent to the marriage of a child under age 16 upon a determination of
467 voluntariness or where otherwise required by law, employment, or enlistment of a child when
468 consent is required by law;

469 (k) any parent or parents of a child committed to a secure youth corrections facility, to
470 order, at the discretion of the court and on the recommendation of a secure facility, the parent
471 or parents of a child committed to a secure facility for a custodial term, to undergo group
472 rehabilitation therapy under the direction of a secure facility therapist, who has supervision of
473 that parent's or parents' child, or any other therapist the court may direct, for a period directed
474 by the court as recommended by a secure facility;

475 (l) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

476 (m) the treatment or commitment of a mentally ill child. The court may commit a child
477 to the physical custody of a local mental health authority in accordance with the procedures and

478 requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to
 479 Division of Substance Abuse and Mental Health. The court may not commit a child directly to
 480 the Utah State Hospital;

481 (n) the commitment of a child in accordance with Section 62A-15-301;

482 (o) de novo review of final agency actions resulting from an informal adjudicative
 483 proceeding as provided in Section 63-46b-15; and

484 (p) adoptions conducted in accordance with the procedures described in Title 78B,
 485 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order
 486 terminating the rights of a parent and finds that adoption is in the best interest of the child.

487 (2) ~~[In addition to the provisions of Subsection (1)(a)]~~ Notwithstanding Section
 488 78A-7-106 and Subsection 78A-5-102(9), the juvenile court has exclusive jurisdiction over ~~[any~~
 489 ~~traffic or boating offense committed by a person under 16 years of age and concurrent~~
 490 ~~jurisdiction over all other traffic or boating offenses committed by a person 16 years of age or~~
 491 ~~older, except that the court shall have exclusive jurisdiction over]~~ the following offenses
 492 committed by a child:

493 ~~[(a) Section 76-5-207, automobile homicide;]~~

494 ~~[(b) Section 41-6a-502, operating a vehicle while under the influence of alcohol or~~
 495 ~~drugs;]~~

496 (a) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

497 ~~[(c)]~~ (b) ~~[Section 41-6a-528, reckless driving or]~~ Section 73-18-12, reckless operation;
 498 and

499 ~~[(d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or~~
 500 ~~semitrailer for an extended period of time; and]~~

501 ~~[(e) Section 41-6a-210 or 73-18-20, fleeing a peace officer.]~~

502 ~~[(3)]~~ (c) ~~[The court also has jurisdiction over traffic and boating offenses]~~ class B and C
 503 misdemeanors, infractions, or violations of ordinances that are part of a single criminal episode
 504 filed in a petition that contains an offense over which the court has jurisdiction.

505 ~~[(4)]~~ (3) The juvenile court has jurisdiction over an ungovernable or runaway child who

506 is referred to it by the Division of Child and Family Services or by public or private agencies
507 that contract with the division to provide services to that child where, despite earnest and
508 persistent efforts by the division or agency, the child has demonstrated that the child:

509 (a) is beyond the control of the child's parent, guardian, lawful custodian, or school
510 authorities to the extent that the child's behavior or condition endangers the child's own welfare
511 or the welfare of others; or

512 (b) has run away from home.

513 [~~(5)~~] (4) This section does not restrict the right of access to the juvenile court by private
514 agencies or other persons.

515 [~~(6)~~] (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
516 arising under Section 78A-6-702.

517 [~~(7)~~] (6) The juvenile court has jurisdiction to make a finding of substantiated,
518 unsubstantiated, or without merit, in accordance with Section 78A-6-323.

519 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court
520 pursuant to Subsection 78A-5-102(9) or 78A-7-106(4).

521 Section 10. Section ~~78A-7-106~~ is amended to read:

522 **78A-7-106. Jurisdiction.**

523 (1) Justice courts have jurisdiction over class B and C misdemeanors, violation of
524 ordinances, and infractions committed within their territorial jurisdiction~~[-, except]~~ by a person
525 18 years of age or older.

526 (2) ~~Except~~ those offenses over which the juvenile court has exclusive jurisdiction~~[-]~~,
527 justice courts have jurisdiction over the following class B and C misdemeanors, violation of
528 ordinances, and infractions committed within their territorial jurisdiction by a person 16 years of
529 age or older:

530 (a) Title 23, Wildlife Resources Code of Utah;

531 (b) Title 41, Chapter 1a, Motor Vehicle Act;

532 (c) Title 41, Chapter 6a, Traffic Code;

533 (d) Title 41, Chapter 12a, Motor Vehicle Financial Responsibility Act;

- 534 (e) Title 41, Chapter 22, Off-Highway Vehicles;
- 535 (f) Title 73, Chapter 18, Safe Boating Act;
- 536 (g) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
- 537 (h) Title 73, Chapter 18b, Water Safety; and
- 538 (i) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators
- 539 Act.

540 (3) Justice Courts have jurisdiction over class C misdemeanor violations of Title 53,
 541 Chapter 3, Part 2, Driver Licensing Act.

542 [~~2~~] (4) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter
 543 8, Small Claims Courts, if the defendant resides in or the debt arose within the territorial
 544 jurisdiction of the justice court.

545 (5) A justice court judge may transfer a matter in which the defendant is a child to the
 546 juvenile court for further proceedings after judgment in the justice court.

547 Section 11. Section **78B-7-204** is amended to read:

548 **78B-7-204. Content of order.**

549 (1) A child protective order or an ex parte child protective order may contain the
 550 following provisions the violation of which is a class A misdemeanor under Section 77-36-2.4:

551 (a) enjoin the respondent from threatening to commit or committing abuse of the minor;

552 (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise
 553 communicating with the minor, directly or indirectly;

554 (c) prohibit the respondent from entering or remaining upon the residence, school, or
 555 place of employment of the minor and the premises of any of these or any specified place
 556 frequented by the minor;

557 (d) upon finding that the respondent's use or possession of a weapon may pose a serious
 558 threat of harm to the minor, prohibit the respondent from purchasing, using, or possessing a
 559 firearm or other specified weapon; and

560 (e) determine ownership and possession of personal property and direct the appropriate
 561 law enforcement officer to attend and supervise the petitioner's or respondent's removal of

562 personal property.

563 (2) A child protective order or an ex parte child protective order may contain the
564 following provisions the violation of which is contempt of court:

565 (a) determine temporary custody of a minor who is the subject of the petition;

566 (b) determine parent-time with a minor who is the subject of the petition, including
567 denial of parent-time if necessary to protect the safety of the minor, and require supervision of
568 parent-time by a third party;

569 (c) determine support in accordance with Title 78B, Chapter 12, Utah Child Support
570 Act; and

571 (d) order any further relief the court considers necessary to provide for the safety and
572 welfare of the minor.

573 (3) A child protective order and an ex parte child protective order shall include:

574 (a) a statement that violation of a criminal provision is a class A misdemeanor and
575 violation of a civil provision is contempt of court; and

576 (b) information the petitioner is able to provide to facilitate identification of the
577 respondent, such as Social Security number, driver license number, date of birth, address,
578 telephone number, and physical description.

579 (4) A child protective order shall include:

580 (a) the date the order expires;

581 ~~[(a)] (b) a statement that [(i) two years from entry of the order, the respondent may~~
582 ~~petition to dismiss the criminal portion of the order; (ii) the petitioner should, within the 30~~
583 ~~days prior to the end of the two-year period, advise the court of the petitioner's address for~~
584 ~~notice of any hearing; and (iii)] the address provided by the petitioner will not be made available~~
585 ~~to the respondent; and~~

586 ~~[(b) the date when the civil portion of the order will expire or be reviewed; and]~~

587 (c) the following statement: "Respondent was afforded notice and opportunity to be
588 heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act
589 of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United

590 States, the District of Columbia, tribal lands, and United States territories. This order complies
591 with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

592 Section 12. Section **78B-7-205** is amended to read:

593 **78B-7-205. Service -- Income withholding -- Expiration.**

594 (1) If the court enters an ex parte child protective order or a child protective order, the
595 court shall:

596 (a) make reasonable efforts to ensure that the order is understood by the petitioner and
597 the respondent, if present;

598 (b) as soon as possible transmit the order to the county sheriff for service; and

599 (c) by the end of the next business day after the order is entered transmit a copy of the
600 order to any law enforcement agency designated by the petitioner and to the statewide domestic
601 violence network described in Section 78B-7-113.

602 (2) The county sheriff shall serve the order and transmit verification of service to the
603 statewide domestic violence network described in Section 78B-7-113 in an expeditious manner.

604 Any law enforcement agency may serve the order and transmit verification of service to the
605 statewide domestic violence network if the law enforcement agency has contact with the
606 respondent or if service by that law enforcement agency is in the best interests of the child.

607 (3) When an order is served on a respondent in a jail, prison, or other holding facility,
608 the law enforcement agency managing the facility shall notify the petitioner of the respondent's
609 release. Notice to the petitioner consists of a prompt, good faith effort to provide notice,
610 including mailing the notice to the petitioner's last-known address.

611 (4) Child support orders issued as part of a child protective order are subject to
612 mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in
613 IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases.

614 (5) After notice and hearing a court may modify or vacate a child protective order
615 without a showing of substantial and material change in circumstances, except that the criminal
616 provisions of the child protective order may not be vacated within two years of issuance unless
617 the petitioner:

618 (a) is personally served with notice of the hearing as provided in Rule 4, Utah Rules of
619 Civil Procedure, and the petitioner personally appears before the court and gives specific
620 consent to the vacation of the criminal provisions of the protective order; or

621 (b) submits a verified affidavit, stating agreement to the vacation of the criminal
622 provisions of the protective order.

623 (6) The [~~civil provisions of the~~] child protective order [~~expire~~] expires 150 days after
624 the date of the order unless a different date is set by the court. The court may not set a date
625 more than 150 days after the date of the order without a finding of good cause. The court may
626 review and extend the expiration date, but may not extend it to more than 150 days after the
627 date of the order without a finding of good cause.

628 (7) Notwithstanding Subsections (5) and (6), unless the judge orders otherwise all child
629 protective orders expire when the subject of the order is 18 years of age, unless the judge
630 vacates the order earlier.

631 **Section 13. Repealer.**

632 This bill repeals:

633 **Section 78A-7-107, Jurisdiction of justice court and juvenile court.**