

JUSTICE COURT PROCESS AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill provides that a sentence imposed by a justice court shall be immediately stayed if a defendant files a proper notice of appeal for a trial de novo in district court.

Highlighted Provisions:

This bill:

► provides that a sentence imposed by a justice court shall be immediately stayed if a defendant files a proper notice of appeal for a trial de novo in district court.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-7-118, as last amended by Laws of Utah 2010, Chapter 215

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

Section 1. Section **78A-7-118** is amended to read:

78A-7-118. Appeals from justice court -- Trial or hearing de novo in district court.

(1) In a criminal case, a defendant is entitled to a trial de novo in the district court only



28 if the defendant files a notice of appeal within 30 days of:

29 (a) sentencing after a bench or jury trial, or a plea of guilty in the justice court resulting
30 in a finding or verdict of guilt; or

31 (b) a plea of guilty in the justice court that is held in abeyance.

32 (2) Upon filing a proper notice of appeal in district court for a trial de novo, any
33 sentence imposed by a justice court shall be immediately stayed.

34 [~~2~~] (3) If an appeal under Subsection (1) is of a plea entered pursuant to negotiation
35 with the prosecutor, and the defendant did not reserve the right to appeal as part of the plea
36 negotiation, the negotiation is voided by the appeal.

37 [~~3~~] (4) A defendant convicted and sentenced in justice court is entitled to a hearing de
38 novo in the district court on the following matters, if the defendant files a notice of appeal
39 within 30 days of:

40 (a) an order revoking probation;

41 (b) an order entering a judgment of guilt pursuant to the person's failure to fulfil the
42 terms of a plea in abeyance agreement;

43 (c) a sentence entered pursuant to Subsection [~~3~~] (4)(b); or

44 (d) an order denying a motion to withdraw a plea.

45 [~~4~~] (5) The prosecutor is entitled to a hearing de novo in the district court on:

46 (a) a final judgment of dismissal;

47 (b) an order arresting judgment;

48 (c) an order terminating the prosecution because of a finding of double jeopardy or
49 denial of a speedy trial;

50 (d) a judgment holding invalid any part of a statute or ordinance;

51 (e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of
52 that evidence prevents continued prosecution of an infraction or class C misdemeanor;

53 (f) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of
54 that evidence impairs continued prosecution of a class B misdemeanor; or

55 (g) an order granting a motion to withdraw a plea of guilty or no contest.

56 [~~5~~] (6) A notice of appeal for a hearing de novo in the district court on a pretrial order
57 excluding evidence under Subsection [~~4~~] (5)(e) or (f) shall be filed within 30 days of the
58 order excluding the evidence.

59 [~~(6)~~] (7) Upon entering a decision in a hearing de novo, the district court shall remand
60 the case to the justice court unless:

61 (a) the decision results in immediate dismissal of the case;

62 (b) with agreement of the parties, the district court consents to retain jurisdiction; or

63 (c) the defendant enters a plea of guilty in the district court.

64 [~~(7)~~] (8) The district court shall retain jurisdiction over the case on trial de novo.

65 [~~(8)~~] (9) The decision of the district court is final and may not be appealed unless the
66 district court rules on the constitutionality of a statute or ordinance.

Legislative Review Note
as of 2-10-12 12:12 PM

Office of Legislative Research and General Counsel