

**Representative Stephanie Pitcher** proposes the following substitute bill:

**TRANSFER OF DOMESTIC VIOLENCE CASES**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephanie Pitcher**

Senate Sponsor: Michael K. McKell

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**LONG TITLE**

**General Description:**

This bill addresses the transfer of domestic violence cases from the justice court to the district court.

**Highlighted Provisions:**

This bill:

- ▶ creates a sunset date for provisions related to the transfer of a criminal action from the justice court to the district court;
- ▶ addresses the jurisdiction of the district court regarding cases transferred by the justice court;
- ▶ defines a "domestic violence offense";
- ▶ requires a justice court to transfer a case involving a domestic violence offense when the case is set for trial; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**



26 AMENDS:

27 **63I-1-278**, as last amended by Laws of Utah 2020, Chapter 154

28 **78A-5-102**, as last amended by Laws of Utah 2021, Chapter 262

29 **78A-7-106**, as last amended by Laws of Utah 2021, Chapter 262

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

32 Section 1. Section **63I-1-278** is amended to read:

33 **63I-1-278. Repeal dates, Title 78A and Title 78B.**

34 (1) Subsection 78A-5-102(14), regarding the district court's jurisdiction over a criminal  
35 action transferred by the justice court, is repealed on July 1, 2024.

36 ~~[(1)]~~ (2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is  
37 repealed July 1, 2029.

38 (3) Subsection 78A-7-106(6), regarding the transfer of a criminal action involving a  
39 domestic violence offense from the justice court to the district court, is repealed on July 1,  
40 2024.

41 ~~[(2)]~~ (4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed  
42 July 1, 2026.

43 ~~[(3)]~~ (5) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child  
44 Support Guidelines Advisory Committee, is repealed July 1, 2026.

45 Section 2. Section **78A-5-102** is amended to read:

46 **78A-5-102. Jurisdiction -- Appeals.**

47 (1) As used in this section:

48 (a) "Qualifying offense" means an offense described in Subsection **80-6-502(1)(b)**.

49 (b) "Separate offense" means any offense that is not a qualifying offense.

50 (c) "Single criminal episode" means the same as that term is defined in Section  
51 **76-1-401**.

52 (2) Except as otherwise provided by the Utah Constitution or by statute, the district  
53 court has original jurisdiction in all matters civil and criminal.

54 (3) A district court judge may issue all extraordinary writs and other writs necessary to  
55 carry into effect the district court judge's orders, judgments, and decrees.

56 (4) The district court has jurisdiction over matters of lawyer discipline consistent with

57 the rules of the Supreme Court.

58 (5) The district court has jurisdiction over all matters properly filed in the circuit court  
59 prior to July 1, 1996.

60 (6) The district court has appellate jurisdiction over judgments and orders of the justice  
61 court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with  
62 Section 78A-8-106.

63 (7) Jurisdiction over appeals from the final orders, judgments, and decrees of the  
64 district court is described in Sections 78A-3-102 and 78A-4-103.

65 (8) The district court has jurisdiction to review:

66 (a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4,  
67 Administrative Procedures Act, and shall comply with the requirements of that chapter in its  
68 review of agency adjudicative proceedings; and

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

70 (9) Notwithstanding Section 78A-7-106, the district court has original jurisdiction  
71 over:

72 (a) a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an  
73 ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

74 (i) there is no justice court with territorial jurisdiction;

75 (ii) the offense occurred within the boundaries of the municipality in which the district  
76 courthouse is located and that municipality has not formed, or has not formed and then  
77 dissolved, a justice court; or

78 (iii) the offense is included in an indictment or information covering a single criminal  
79 episode alleging the commission of a felony or a class A misdemeanor by an individual who is  
80 18 years old or older; or

81 (b) a qualifying offense committed by an individual who is 16 or 17 years old.

82 (10) (a) Notwithstanding Subsection 78A-7-106(2), the district court has exclusive  
83 jurisdiction over any separate offense:

84 (i) committed by an individual who is 16 or 17 years old; and

85 (ii) arising from a single criminal episode containing a qualifying offense for which the  
86 district court has original jurisdiction under Subsection (9)(b).

87 (b) If an individual who is charged with a qualifying offense enters a plea to, or is

88 found guilty of, a separate offense other than the qualifying offense, the district court shall have  
89 jurisdiction over the separate offense.

90 (c) If an individual who is 16 or 17 years old is charged with a qualifying offense and  
91 the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal, the  
92 exclusive jurisdiction of the district court over any separate offense is terminated.

93 (11) If a district court has jurisdiction in accordance with Subsection (6), (9)(a)(i), or  
94 (9)(a)(ii), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2)  
95 even if the offense is committed by an individual who is 16 or 17 years old.

96 (12) The district court has subject matter jurisdiction over an offense for which the  
97 juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the  
98 offense to the district court in accordance with Section 80-6-504.

99 (13) The district court has subject matter jurisdiction over an action under Title 78B,  
100 Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the  
101 district court.

102 (14) (a) The district court has subject matter jurisdiction over a criminal action that the  
103 justice court transfers to the district court in accordance with Subsection 78A-7-106(6).

104 (b) Notwithstanding Subsection 78A-7-106(1), the district court has original  
105 jurisdiction over any refiled case of a criminal action transferred to the district court in  
106 accordance with Subsection 78A-7-106(6) if the district court dismissed the transferred case  
107 without prejudice.

108 Section 3. Section 78A-7-106 is amended to read:

109 **78A-7-106. Jurisdiction -- Transfer to district court.**

110 (1) Except as otherwise provided by Subsection 78A-5-102[(8)](9), a justice court has  
111 original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions  
112 committed within the justice court's territorial jurisdiction by an individual who is 18 years old  
113 or older.

114 (2) Except for an offense for which the juvenile court or the district court has exclusive  
115 jurisdiction under Subsection 78A-5-102(10) or Section 78A-6-103.5, a justice court has  
116 original jurisdiction over the following offenses committed within the justice court's territorial  
117 jurisdiction by an individual who is 16 or 17 years old:

118 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver

- 119 Licensing Act; and
- 120 (b) class B and C misdemeanor and infraction violations of:
- 121 (i) Title 23, Wildlife Resources Code of Utah;
- 122 (ii) Title 41, Chapter 1a, Motor Vehicle Act;
- 123 (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
- 124 Under the Influence and Reckless Driving;
- 125 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
- 126 Operators Act;
- 127 (v) Title 41, Chapter 22, Off-Highway Vehicles;
- 128 (vi) Title 73, Chapter 18, State Boating Act, except Section [73-18-12](#);
- 129 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
- 130 (viii) Title 73, Chapter 18b, Water Safety; and
- 131 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
- 132 Operators Act.
- 133 (3) An offense is committed within the territorial jurisdiction of a justice court if:
- 134 (a) conduct constituting an element of the offense or a result constituting an element of
- 135 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
- 136 itself unlawful;
- 137 (b) either an individual committing an offense or a victim of an offense is located
- 138 within the court's jurisdiction at the time the offense is committed;
- 139 (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs
- 140 within the court's jurisdiction;
- 141 (d) an individual commits any act constituting an element of an inchoate offense within
- 142 the court's jurisdiction, including an agreement in a conspiracy;
- 143 (e) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another
- 144 individual in the planning or commission of an offense within the court's jurisdiction;
- 145 (f) the investigation of the offense does not readily indicate in which court's
- 146 jurisdiction the offense occurred, and:
- 147 (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
- 148 passing within the court's jurisdiction;
- 149 (ii) (A) the offense is committed on or in any body of water bordering on or within this

150 state if the territorial limits of the justice court are adjacent to the body of water; and

151 (B) as used in Subsection (3)(f)(ii)(A), "body of water" includes any stream, river, lake,  
152 or reservoir, whether natural or man-made;

153 (iii) an individual who commits theft exercises control over the affected property  
154 within the court's jurisdiction; or

155 (iv) the offense is committed on or near the boundary of the court's jurisdiction;

156 (g) the offense consists of an unlawful communication that was initiated or received  
157 within the court's jurisdiction; or

158 (h) jurisdiction is otherwise specifically provided by law.

159 (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may  
160 transfer the case to the juvenile court for further proceedings if the justice court judge  
161 determines and the juvenile court concurs that the best interests of the defendant would be  
162 served by the continuing jurisdiction of the juvenile court.

163 (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,  
164 Small Claims Courts, if a defendant resides in or the debt arose within the territorial  
165 jurisdiction of the justice court.

166 (6) (a) As used in this Subsection (6), "domestic violence offense" means the same as  
167 that term is defined in Section [77-36-1](#).

168 (b) If a justice court has jurisdiction over a criminal action involving a domestic  
169 violence offense and the criminal action is set for  $\hat{H} \rightarrow$  jury  $\leftarrow \hat{H}$  trial, the justice court shall transfer  
169a the case  
170 to the district court.

171 Section 4. **Effective date.**

172 This bill takes effect on July 1, 2022.