

TRANSFER OF DOMESTIC VIOLENCE CASES

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

Senate Sponsor: _____

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:

- ▶ addresses the jurisdiction of the district court regarding cases transferred by the justice court;
- ▶ defines a "domestic violence offense";
- ▶ allows a prosecutor to file a notice of transfer in the justice court for a case involving a domestic violence offense;
- ▶ requires the justice court to transfer a case when a notice of transfer is filed; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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



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

Section 1. Section **78A-5-102** is amended to read:

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

(8) The district court has jurisdiction to review:

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

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

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

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

59 (i) there is no justice court with territorial jurisdiction;
60 (ii) the offense occurred within the boundaries of the municipality in which the district
61 courthouse is located and that municipality has not formed, or has not formed and then
62 dissolved, a justice court; or

63 (iii) the offense is included in an indictment or information covering a single criminal
64 episode alleging the commission of a felony or a class A misdemeanor by an individual who is
65 18 years old or older; or

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

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

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

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

72 (b) If an individual who is charged with a qualifying offense enters a plea to, or is
73 found guilty of, a separate offense other than the qualifying offense, the district court shall have
74 jurisdiction over the separate offense.

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

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

81 (12) The district court has subject matter jurisdiction over:

82 (a) an offense for which the juvenile court has original jurisdiction if the juvenile court
83 transfers jurisdiction over the offense to the district court in accordance with Section
84 80-6-504[?];

85 [~~(13) The district court has subject matter jurisdiction over]~~

86 (b) an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile
87 court transfers the action to the district court[?]; and

88 (c) a criminal action that the justice court transfers to the district court in accordance
89 with Subsection 78A-7-106(6).

90 Section 2. Section 78A-7-106 is amended to read:

91 **78A-7-106. Jurisdiction -- Transfer to district court.**

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

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

100 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
101 Licensing Act; and

102 (b) class B and C misdemeanor and infraction violations of:

103 (i) Title 23, Wildlife Resources Code of Utah;

104 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

105 (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
106 Under the Influence and Reckless Driving;

107 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
108 Operators Act;

109 (v) Title 41, Chapter 22, Off-Highway Vehicles;

110 (vi) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

111 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

112 (viii) Title 73, Chapter 18b, Water Safety; and

113 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
114 Operators Act.

115 (3) An offense is committed within the territorial jurisdiction of a justice court if:

116 (a) conduct constituting an element of the offense or a result constituting an element of
117 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
118 itself unlawful;

119 (b) either an individual committing an offense or a victim of an offense is located
120 within the court's jurisdiction at the time the offense is committed;

121 (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs
122 within the court's jurisdiction;

123 (d) an individual commits any act constituting an element of an inchoate offense within
124 the court's jurisdiction, including an agreement in a conspiracy;

125 (e) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another
126 individual in the planning or commission of an offense within the court's jurisdiction;

127 (f) the investigation of the offense does not readily indicate in which court's
128 jurisdiction the offense occurred, and:

129 (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
130 passing within the court's jurisdiction;

131 (ii) (A) the offense is committed on or in any body of water bordering on or within this
132 state if the territorial limits of the justice court are adjacent to the body of water; and

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

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

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

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

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

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

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

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

150 (b) If a justice court has jurisdiction over a criminal action involving a domestic
151 violence offense, a prosecutor may file a notice of transfer in the justice court to move the case

152 from the justice court to the district court.

153 (c) Upon the filing of a notice of transfer in the justice court, the justice court shall

154 transfer the case to the district court.