

**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 regarding 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 justice court receives a notice of transfer from a prosecuting attorney or a defendant; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63I-1-278**, as last amended by Laws of Utah 2020, Chapter 154

29 **78A-5-102**, as last amended by Laws of Utah 2021, Chapter 262

30 **78A-7-106**, as last amended by Laws of Utah 2021, Chapter 262

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

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

34 **63I-1-278. Repeal dates, Title 78A and Title 78B.**

35 (1) Section **78B-3-421**, regarding medical malpractice arbitration agreements, is  
36 repealed July 1, 2029.

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38 domestic violence offense from the justice court to the district court, is repealed on July 1,  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

40 [~~2~~] (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed  
41 July 1, 2026.

42 [~~3~~] (4) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child  
43 Support Guidelines Advisory Committee, is repealed July 1, 2026.

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

45 **78A-5-102. Jurisdiction -- Appeals.**

46 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

86 (b) If an individual who is charged with a qualifying offense enters a plea to, or is  
87 found guilty of, a separate offense other than the qualifying offense, the district court shall have

88 jurisdiction over the separate offense.

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

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

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

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

101 (14) (a) The district court has subject matter jurisdiction over a criminal action that the  
102 justice court transfers to the district court.

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

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

107 **78A-7-106. Jurisdiction -- Transfer to district court.**

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

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

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

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

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

150 or reservoir, whether natural or man-made;

151 (iii) an individual who commits theft exercises control over the affected property

152 within the court's jurisdiction; or

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

154 (g) the offense consists of an unlawful communication that was initiated or received

155 within the court's jurisdiction; or

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

157 (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may

158 transfer the case to the juvenile court for further proceedings if the justice court judge

159 determines and the juvenile court concurs that the best interests of the defendant would be

160 served by the continuing jurisdiction of the juvenile court.

161 (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,

162 Small Claims Courts, if a defendant resides in or the debt arose within the territorial

163 jurisdiction of the justice court.

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

166 (b) If a justice court has jurisdiction over a criminal action involving a domestic  
167 violence offense and the criminal action is set for trial, the prosecuting attorney or the  
168 defendant may file a notice of transfer in the justice court to transfer the criminal action from  
169 the justice court to the district court.

170 (c) If a justice court receives a notice of transfer from the prosecuting attorney or the  
171 defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action  
172 to the district court.

173 Section 4. **Effective date.**

174 This bill takes effect on July 1, 2022.