

HB0196S03 compared with HB0196S02

~~text~~ shows text that was in HB0196S02 but was deleted in HB0196S03.

text shows text that was not in HB0196S02 but was inserted into HB0196S03.

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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: _____

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~~ 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

HB0196S03 compared with HB0196S02

defendant; 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:

AMENDS:

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

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

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

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

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

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78A-5-102(14), regarding the district court's jurisdiction over a criminal action transferred by the justice court, is repealed on July 1, 2024.~~

~~{ (1) (2) } Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.~~

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transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed on July 1, 2024.~~

~~{ (3) } (4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.~~

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Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.~~

Section 2. 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.

HB0196S03 compared with HB0196S02

(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:

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

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

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

HB0196S03 compared with HB0196S02

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Except as otherwise provided by Subsection 78A-5-102(8), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions

HB0196S03 compared with HB0196S02

committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HB0196S03 compared with HB0196S02

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

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

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

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

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

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

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

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

(h) jurisdiction is otherwise specifically provided by law.

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

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

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

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

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

HB0196S03 compared with HB0196S02

to the district court.

Section 4. **Effective date.**

This bill takes effect on July 1, 2022.