

JUDICIARY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to judicial administration.

Highlighted Provisions:

This bill:

- ▶ clarifies the amount of a fee deposited in the Dispute Resolution Account;
- ▶ amends provisions regarding judicial vacancies for justice courts;
- ▶ enacts provisions on presiding and associate judges for justice courts; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-2-301, as last amended by Laws of Utah 2021, Chapters 157 and 262

78A-7-202, as last amended by Laws of Utah 2021, Chapter 355

ENACTS:

78A-7-209.5, Utah Code Annotated 1953

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



28 Section 1. Section **78A-2-301** is amended to read:

29 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

30 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
31 court of record not governed by another subsection is \$375.

32 (b) The fee for filing a complaint or petition is:

33 (i) \$90 if the claim for damages or amount in interpleader exclusive of court costs,
34 interest, and attorney fees is \$2,000 or less;

35 (ii) \$200 if the claim for damages or amount in interpleader exclusive of court costs,
36 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

37 (iii) \$375 if the claim for damages or amount in interpleader is \$10,000 or more;

38 (iv) \$325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
39 4, Separate Maintenance;

40 (v) \$35 for a motion for temporary separation order filed under Section [30-3-4.5](#);

41 (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender
42 Registry under Section [77-41-112](#); and

43 (vii) \$35 if the petition is for guardianship and the prospective ward is the biological or
44 adoptive child of the petitioner.

45 (c) The fee for filing a small claims affidavit is:

46 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
47 interest, and attorney fees is \$2,000 or less;

48 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
49 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

50 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
51 interest, and attorney fees is \$7,500 or more.

52 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
53 complaint, or other claim for relief against an existing or joined party other than the original
54 complaint or petition is:

55 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
56 \$2,000 or less;

57 (ii) \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is
58 greater than \$2,000 and less than \$10,000;

59 (iii) \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is
60 \$10,000 or more, or the party seeks relief other than monetary damages; and

61 (iv) \$130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
62 Chapter 4, Separate Maintenance.

63 (e) The fee for filing a small claims counter affidavit is:

64 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
65 \$2,000 or less;

66 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
67 greater than \$2,000, but less than \$7,500; and

68 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
69 \$7,500 or more.

70 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
71 action already before the court is determined under Subsection (1)(b) based on the amount
72 deposited.

73 (g) The fee for filing a petition is:

74 (i) \$240 for trial de novo of an adjudication of the justice court or of the small claims
75 department; and

76 (ii) \$80 for an appeal of a municipal administrative determination in accordance with
77 Section 10-3-703.7.

78 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
79 petition for writ of certiorari is \$240.

80 (i) The fee for filing a petition for expungement is \$150.

81 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
82 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
83 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
84 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
85 Act.

86 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
87 allocated by the state treasurer to be deposited into the restricted account, Children's Legal
88 Defense Account, as provided in Section 51-9-408.

89 (iii) [~~Three~~] Five dollars of the fees established under Subsections (1)(a) through (e),

90 (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as
91 provided in Section 78B-6-209.

92 (iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
93 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
94 deposited into the restricted account, Court Security Account, as provided in Section
95 78A-2-602.

96 (v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii)
97 and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account,
98 Court Security Account, as provided in Section 78A-2-602.

99 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
100 United States is \$35.

101 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is
102 50% of the fee for filing an original action seeking the same relief.

103 (m) The fee for filing probate or child custody documents from another state is \$35.

104 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
105 State Tax Commission is \$30.

106 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
107 or a judgment, order, or decree of an administrative agency, commission, board, council, or
108 hearing officer of this state or of its political subdivisions other than the State Tax
109 Commission, is \$50.

110 (o) The fee for filing a judgment by confession without action under Section
111 78B-5-205 is \$35.

112 (p) The fee for filing an award of arbitration for confirmation, modification, or
113 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
114 action before the court is \$35.

115 (q) The fee for filing a petition or counter-petition to modify a domestic relations order
116 other than a protective order or stalking injunction is \$100.

117 (r) The fee for filing any accounting required by law is:

118 (i) \$15 for an estate valued at \$50,000 or less;

119 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

120 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

- 121 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
- 122 (v) \$175 for an estate valued at more than \$168,000.
- 123 (s) The fee for filing a demand for a civil jury is \$250.
- 124 (t) The fee for filing a notice of deposition in this state concerning an action pending in
- 125 another state under Utah Rules of Civil Procedure, Rule 30 is \$35.
- 126 (u) The fee for filing documents that require judicial approval but are not part of an
- 127 action before the court is \$35.
- 128 (v) The fee for a petition to open a sealed record is \$35.
- 129 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
- 130 addition to any fee for a complaint or petition.
- 131 (x) (i) The fee for a petition for authorization for a minor to marry required by Section
- 132 30-1-9 is \$5.
- 133 (ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7,
- 134 Emancipation, is \$50.
- 135 (y) The fee for a certificate issued under Section 26-2-25 is \$8.
- 136 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per
- 137 page.
- 138 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
- 139 per page.
- 140 (bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of
- 141 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
- 142 Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc)
- 143 shall be credited to the court as a reimbursement of expenditures.
- 144 (cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of
- 145 the public to conduct a limited amount of searches on the Xchange database without having to
- 146 pay a monthly subscription fee.
- 147 (dd) There is no fee for services or the filing of documents not listed in this section or
- 148 otherwise provided by law.
- 149 (ee) Except as provided in this section, all fees collected under this section are paid to
- 150 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
- 151 accepts the pleading for filing or performs the requested service.

152 (ff) The filing fees under this section may not be charged to the state, the state's
153 agencies, or political subdivisions filing or defending any action. In judgments awarded in
154 favor of the state, its agencies, or political subdivisions, except the Office of Recovery
155 Services, the court shall order the filing fees and collection costs to be paid by the judgment
156 debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit
157 to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

158 (2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall
159 transfer all revenues representing the difference between the fees in effect after May 2, 1994,
160 and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities
161 Construction and Management Capital Projects Fund.

162 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
163 Construction and Management shall use up to \$3,750,000 of the revenue deposited into the
164 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
165 initiate the development of a courts complex in Salt Lake City.

166 (B) If the Legislature approves funding for construction of a courts complex in Salt
167 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
168 Management shall use the revenue deposited into the Capital Projects Fund under this
169 Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

170 (C) After the courts complex is completed and all bills connected with its construction
171 have been paid, the Division of Facilities Construction and Management shall use any money
172 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
173 District Court building.

174 (iii) The Division of Facilities Construction and Management may enter into
175 agreements and make expenditures related to this project before the receipt of revenues
176 provided for under this Subsection (2)(a)(iii).

177 (iv) The Division of Facilities Construction and Management shall:

178 (A) make those expenditures from unexpended and unencumbered building funds
179 already appropriated to the Capital Projects Fund; and

180 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
181 under this Subsection (2).

182 (b) After June 30, 1998, the state court administrator shall ensure that all revenues

183 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
184 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
185 account.

186 (c) The Division of Finance shall deposit all revenues received from the state court
187 administrator into the restricted account created by this section.

188 (d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall
189 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
190 Vehicles, in a court of record to the Division of Facilities Construction and Management
191 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be
192 calculated on the balance of the fine or bail forfeiture paid.

193 (ii) After June 30, 1998, the state court administrator or a municipality shall transfer \$7
194 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a
195 court of record to the Division of Finance for deposit in the restricted account created by this
196 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
197 balance of the fine or bail forfeiture paid.

198 (3) (a) There is created within the General Fund a restricted account known as the State
199 Courts Complex Account.

200 (b) The Legislature may appropriate money from the restricted account to the state
201 court administrator for the following purposes only:

- 202 (i) to repay costs associated with the construction of the court complex that were
203 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and
204 (ii) to cover operations and maintenance costs on the court complex.

205 Section 2. Section 78A-7-202 is amended to read:

206 **78A-7-202. Justice court judges to be appointed -- Procedure.**

207 (1) As used in this section:

208 (a) "Local government executive" means:

209 (i) for a county:

210 (A) the chair of the county commission in a county operating under the county
211 commission or expanded county commission form of county government;

212 (B) the county executive in a county operating under the county executive-council form
213 of county government; and

214 (C) the county manager in a county operating under the council-manager form of
215 county government;

216 (ii) for a city or town:

217 (A) the mayor of the city or town; or

218 (B) the city manager, in the council-manager form of government described in
219 Subsection [10-3b-103](#)(7); and

220 (iii) for a metro township, the chair of the metro township council.

221 (b) "Local legislative body" means:

222 (i) for a county, the county commission or county council; and

223 (ii) for a city or town, the council of the city or town.

224 (2) (a) There is created in each county a county justice court nominating commission to
225 review applicants and make recommendations to the appointing authority for a justice court
226 position.

227 (b) The commission shall be convened when a new justice court judge position is
228 created or when a vacancy in an existing court occurs for a justice court located within the
229 county.

230 ~~[(a)]~~ (c) Membership of the justice court nominating commission shall be as follows:

231 (i) one member appointed by:

232 (A) the county commission if the county has a county commission form of
233 government; or

234 (B) the county executive if the county has an executive-council form of government;

235 (ii) one member appointed by the municipalities in the counties as follows:

236 (A) if the county has only one municipality, appointment shall be made by the
237 governing authority of that municipality; or

238 (B) if the county has more than one municipality, appointment shall be made by a
239 municipal selection committee composed of the mayors of each municipality and the chairs of
240 each metro township in the county;

241 (iii) one member appointed by the county bar association; and

242 (iv) two members appointed by the governing authority of the jurisdiction where the
243 judicial office is located.

244 ~~[(b)]~~ (d) (i) If there is no county bar association, the member in Subsection

245 (2)~~(a)~~(c)(iii) shall be appointed by the regional bar association.

246 (ii) If no regional bar association exists, the state bar association shall make the
247 appointment.

248 ~~(c)~~ (e) Members appointed under Subsections (2)~~(a)~~(c)(i) and (ii) may not be the
249 appointing authority or an elected official of a county or municipality.

250 ~~(d)~~ (f) (i) ~~[The]~~ Except as provided in Subsection (2)(d)(ii), the nominating
251 commission shall submit at least three names to the appointing authority of the jurisdiction
252 expected to be served by the judge.

253 (ii) If there are fewer than three applicants for a justice court vacancy, the nominating
254 commission shall submit all qualified applicants to the appointing authority of the jurisdiction
255 expected to be served by the judge.

256 (iii) The local government executive shall appoint a judge from the list submitted and
257 the appointment ratified by the local legislative body.

258 ~~(e)~~ (g) (i) The state court administrator shall provide staff to the commission.

259 (ii) The Judicial Council shall establish rules and procedures for the conduct of the
260 commission.

261 ~~[(3) Judicial vacancies shall be advertised in a newspaper of general circulation,
262 through the Utah State Bar, on the Utah Public Notice Website, created in Section 63A-16-601,
263 and through other appropriate means.]~~

264 (3) (a) A judicial vacancy for a justice court shall be announced:

265 (i) as an employment opportunity on the Utah Courts' website;

266 (ii) in an email to the members of the Utah State Bar; and

267 (iii) on the Utah Public Notice Website, created in Section 63A-16-601.

268 (b) A judicial vacancy for a justice court may also be advertised through other
269 appropriate means.

270 (4) Selection of candidates shall be based on compliance with the requirements for
271 office and competence to serve as a judge.

272 (5) (a) Once selected, every prospective justice court judge shall attend an orientation
273 seminar conducted under the direction of the Judicial Council.

274 (b) Upon completion of the orientation ~~[program]~~ seminar described in Subsection
275 (5)(a), the Judicial Council shall certify the justice court judge as qualified to hold office.

276 (6) (a) The selection of a person to fill the office of justice court judge is effective upon
277 certification of the judge by the Judicial Council.

278 (b) A justice court judge may not perform judicial duties until certified by the Judicial
279 Council.

280 Section 3. Section **78A-7-209.5** is enacted to read:

281 **78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers --**
282 **Duties.**

283 (1) In judicial districts having more than one justice court judge, the justice court
284 judges shall elect one judge of the district to the office of presiding judge.

285 (2) In judicial districts having more than two justice court judges, the justice court
286 judges may elect one judge of the district to the office of associate presiding judge.

287 (3) The presiding judge has the following authority and responsibilities, consistent with
288 the policies of the Judicial Council:

289 (a) working with each justice court judge in the district to implement policies and rules
290 of the Judicial Council;

291 (b) exercising powers and performing administrative duties as authorized by the
292 Judicial Council;

293 (c) if there is no other appointed justice court judge in that court available, assigning a
294 justice court judge to hear a case in which a judge has been disqualified in accordance with
295 rules of the Supreme Court;

296 (d) if a justice court judge of the district cannot perform the justice court judge's duties
297 in a case or cases due to illness, death, or other incapacity, and the governing body has not
298 appointed a temporary justice court judge in accordance with Section [78A-7-208](#):

299 (i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

300 (ii) facilitating judicial coverage with the appointing municipal or county authority
301 until a temporary justice court judge can be appointed, in accordance with Section [78A-7-208](#),
302 or a new justice court judge is formally appointed and takes office, in accordance with Section
303 [78A-7-202](#); and

304 (e) entering orders of expungement in cases expunged in accordance with Section
305 [77-40-114](#).

306 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall

307 assume the responsibilities of the presiding judge.

308 (b) The associate presiding judge shall perform other duties assigned by the presiding

309 judge.