

HB0216S01 compared with HB0216

~~text~~ shows text that was in HB0216 but was deleted in HB0216S01.

text shows text that was not in HB0216 but was inserted into HB0216S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Brady Brammer proposes the following substitute bill:

BUSINESS AND CHANCERY COURT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses the establishment of the Business and Chancery Court.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes the Business and Chancery Court;
- ▶ addresses the postjudgment interest rate for judgments of the Business and Chancery Court;
- ▶ addresses retention elections for judges of the Business and Chancery Court;
- ▶ addresses salaries for judges of the Business and Chancery Court;
- ▶ provides that the Business and Chancery Court is not geographically divided into districts;

HB0216S01 compared with HB0216

- ▶ provides the number of judges of the Business and Chancery Court;
- ▶ amends the membership of the Judicial Council to include a member from the Business and Chancery Court;
- ▶ amends provisions regarding the administration of the courts to address the creation of the Business and Chancery Court;
- ▶ addresses a judicial hiring freeze for judges of the Business and Chancery Court;
- ▶ provides that the Business and Chancery Court is a trial court with statewide jurisdiction;
- ▶ addresses the organization and status of the Business and Chancery Court;
- ▶ addresses the jurisdiction of the Business and Chancery Court;
- ▶ provides that the Business and Chancery Court is the trier of fact and law in an action before the Business and Chancery Court;
- ▶ addresses a demand for a jury trial in the Business and Chancery Court;
- ▶ addresses the administration of the Business and Chancery Court, including:
 - the terms for judges of the Business and Chancery Court;
 - the presiding judge and associate presiding judge of the Business and Chancery Court; and
 - staff and management of the Business and Chancery Court;
- ▶ addresses the location and facilities of the Business and Chancery Court;
- ▶ enacts a civil fee for the Business and Chancery Court;
- ▶ addresses decisions and rulings by the Business and Chancery Court;
- ▶ addresses the selection process for judges of the Business and Chancery Court, including the creation of the Business and Chancery Court Nominating Commission;
- ▶ amends provisions regarding the Judicial Conduct Commission; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

[This bill provides revisor instructions.](#)

HB0216S01 compared with HB0216

Utah Code Sections Affected:

AMENDS:

- 15-1-4**, as last amended by Laws of Utah 2018, Chapter 30
- 20A-12-201**, as last amended by Laws of Utah 2022, Chapter 202
- 63A-5b-303**, as last amended by Laws of Utah 2022, Chapters 169, 421
- 67-8-2**, as last amended by Laws of Utah 2022, Chapter 276
- 77-38-502**, as enacted by Laws of Utah 2020, Chapter 112
- 78A-1-101**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-1-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-2-103**, as last amended by Laws of Utah 2018, Chapter 25
- 78A-2-104**, as last amended by Laws of Utah 2021, Chapter 262
- 78A-2-107**, as last amended by Laws of Utah 2018, Chapters 25, 200
- 78A-2-108**, as last amended by Laws of Utah 2018, Chapter 25
- 78A-2-110**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-2-113**, as enacted by Laws of Utah 2010, Chapter 175
- 78A-2-202**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-2-204**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-2-208**, as last amended by Laws of Utah 2016, Chapter 126
- 78A-2-211**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-2-213**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-2-802**, as last amended by Laws of Utah 2022, Chapter 334
- 78A-5-107**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-10-103**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 7
- 78A-10-104**, as last amended by Laws of Utah 2010, Chapter 134 and last amended by
Coordination Clause, Laws of Utah 2010, Chapter 134
- 78A-10-301**, as enacted by Laws of Utah 2008, Chapter 3
- 78A-10-302**, as last amended by Laws of Utah 2010, Chapter 134
- 78A-10-303**, as last amended by Laws of Utah 2010, Chapter 134
- 78A-10-304**, as enacted by Laws of Utah 2008, Chapter 3
- 78A-10-305**, as repealed and reenacted by Laws of Utah 2010, Chapter 286
- 78A-11-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3

HB0216S01 compared with HB0216

78A-11-103, as last amended by Laws of Utah 2020, Chapters 352, 373

78A-11-106, as last amended by Laws of Utah 2018, Chapter 25

ENACTS:

78A-1-103.5, Utah Code Annotated 1953

78A-2-301.1, Utah Code Annotated 1953

78A-5a-101, Utah Code Annotated 1953

78A-5a-102, Utah Code Annotated 1953

78A-5a-103, Utah Code Annotated 1953

78A-5a-104, Utah Code Annotated 1953

78A-5a-105, Utah Code Annotated 1953

78A-5a-201, Utah Code Annotated 1953

78A-5a-202, Utah Code Annotated 1953

78A-5a-203, Utah Code Annotated 1953

78A-5a-204, Utah Code Annotated 1953

78A-5a-205, Utah Code Annotated 1953

78A-5a-301, Utah Code Annotated 1953

78A-5a-302, Utah Code Annotated 1953

78A-10-101.5, Utah Code Annotated 1953

78A-10-401, Utah Code Annotated 1953

78A-10-402, Utah Code Annotated 1953

78A-10-403, Utah Code Annotated 1953

78A-10-404, Utah Code Annotated 1953

78A-10-405, Utah Code Annotated 1953

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

Section 1. Section **15-1-4** is amended to read:

15-1-4. Interest on judgments.

(1) As used in this section, "federal postjudgment interest rate" means the interest rate established for the federal court system under 28 U.S.C. Sec. 1961, as amended.

(2) (a) Except as provided in Subsection (2)(b), a judgment rendered on a lawful contract shall conform to the contract and shall bear the interest agreed upon by the parties,

HB0216S01 compared with HB0216

which shall be specified in the judgment.

(b) A judgment rendered on a deferred deposit loan subject to Title 7, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act, shall bear interest at the rate imposed under Subsection (3)(a) on an amount not exceeding the sum of:

(i) the total of the principal balance of the deferred deposit loan;

(ii) interest at the rate imposed by the deferred deposit loan agreement for a period not exceeding 10 weeks as provided in Subsection 7-23-401(4);

(iii) costs;

(iv) attorney fees; and

(v) other amounts allowed by law and ordered by the court.

(3) (a) Except as otherwise provided by law, or as governed by Subsection (4), all other final civil and criminal judgments of the district court [~~and~~], the justice court, and the Business and Chancery Court shall bear interest at the federal postjudgment interest rate as of January 1 of each year, plus 2%.

(b) The postjudgment interest rate in effect at the time of the judgment shall remain the interest rate for the duration of the judgment.

(c) The interest on criminal judgments shall be calculated on the total amount of the judgment.

(d) Interest paid on state revenue shall be deposited in accordance with Section 63A-3-505.

(e) Interest paid on revenue to a county or municipality shall be paid to the general fund of the county or municipality.

(4) A judgment under \$10,000 in an action regarding the purchase of goods and services shall bear interest from the date on which the district court [~~or~~], the justice court, or the Business and Chancery Court enters the judgment at 10% plus the federal postjudgment interest rate in effect on January 1 of the year in which the judgment is entered.

Section 2. Section **20A-12-201** is amended to read:

20A-12-201. Judicial appointees -- Retention elections.

(1) (a) Each judicial appointee to a court is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.

(b) After the first retention election:

HB0216S01 compared with HB0216

(i) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and

(ii) each judge of other courts shall be on the regular general election ballot for an unopposed retention election every sixth year.

(2) (a) Each justice or judge of a court of record who wishes to retain office shall, in the year the justice or judge is subject to a retention election:

(i) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and

(ii) pay a filing fee of \$50.

(b) (i) Each justice court judge who wishes to retain office shall, in the year the justice court judge is subject to a retention election:

(A) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and

(B) pay a filing fee of \$25 for each judicial office.

(ii) If a justice court judge is appointed or elected to more than one judicial office, the declaration of candidacy shall identify all of the courts included in the same general election.

(iii) If a justice court judge is appointed or elected to more than one judicial office, filing a declaration of candidacy in one county in which one of those courts is located is valid for the courts in any other county.

(3) (a) The lieutenant governor shall, no later than August 31 of each regular general election year:

(i) transmit a certified list containing the names of the justices of the Supreme Court ~~[and]~~₂ judges of the Court of Appeals, and judges of the Business and Chancery Court declaring their candidacy to the county clerk of each county; and

(ii) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office.

(b) Each county clerk shall place the names of justices and judges standing for retention election in the nonpartisan section of the ballot.

HB0216S01 compared with HB0216

(4) (a) At the general election, the ballots shall contain:

(i) at the beginning of the judicial retention section of the ballot, the following statement:

"Visit judges.utah.gov to learn about the Judicial Performance Evaluation Commission's recommendations for each judge"; and

(ii) as to each justice or judge of any court to be voted on in the county, the following question:

"Shall _____ (name of justice or judge) be retained in the office of _____? (name of office, such as "Justice of the Supreme Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the Business and Chancery Court of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county) County or (name of municipality)")

Yes ()

No ()."

(b) If a justice court exists by means of an interlocal agreement under Section 78A-7-102, the ballot question for the judge shall include the name of that court.

(5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge is retained for the term of office provided by law.

(b) If the justice or judge does not receive more yes votes than no votes, the justice or judge is not retained, and a vacancy exists in the office on the first Monday in January after the regular general election.

(6) A justice or judge not retained is ineligible for appointment to the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) (a) If a justice court judge is standing for retention for one or more judicial offices in a county in which the judge is a county justice court judge or a municipal justice court judge in a town or municipality of the fourth or fifth class, as described in Section 10-2-301, or any combination thereof, the election officer shall place the judge's name on the county ballot only once for all judicial offices for which the judge seeks to be retained.

(b) If a justice court judge is standing for retention for one or more judicial offices in a municipality of the first, second, or third class, as described in Section 10-2-301, the election

HB0216S01 compared with HB0216

officer shall place the judge's name only on the municipal ballot for the voters of the municipality that the judge serves.

Section 3. Section **63A-5b-303** is amended to read:

63A-5b-303. Duties and authority of division.

(1) (a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities:

(A) to implement the state building energy efficiency program under Section 63A-5b-1002; and

(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State

HB0216S01 compared with HB0216

Developmental Center board, as provided in Subsection 62A-5-206.6(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed \$500,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3) (a) The division may not supervise or control the allocation of space for an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

(e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts [~~referred to in Subsection 78A-2-108(3)~~] described in Section 78A-2-108.

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by

HB0216S01 compared with HB0216

the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 4. Section **67-8-2** is amended to read:

67-8-2. Salaries of judges established annually in appropriations act -- Bases of salaries -- Additional compensation.

(1) The salaries of judges of courts of record, as described in Section 78A-1-101, shall be set annually by the Legislature in an appropriations act.

(2) Judicial salaries shall be based on the following percentages of the salary of a district court judge:

(a) juvenile court judges: 100%;

(b) Business and Chancery Court judges: ~~100%~~ 100%;

~~[(b)] (c)~~ Court of Appeals judges: 105%; and

~~[(c)] (d)~~ justices of the Supreme Court: 110%.

(3) (a) A salary described in Subsection (2) does not include additional compensation provided for a presiding judge or associate presiding judge under:

(i) Section 78A-3-101;

(ii) Section 78A-4-102;

(iii) Section 78A-5-106;

(iv) Section 78A-5a-202; or

~~[(iv)] (v)~~ Section 78A-6-203.

(b) Compensation described in Subsection (3)(a) does not constitute a salary for purposes of Utah Constitution, Article VIII, Section 14.

Section 5. Section **77-38-502** is amended to read:

77-38-502. Definitions.

As used in this part:

(1) "Certifying entity" means any of the following:

(a) a law enforcement agency, as defined in Section 77-7a-103;

HB0216S01 compared with HB0216

- (b) a prosecutor, as defined in Section 77-22-4.5;
 - (c) a court~~[, as defined]~~ described in Section 78A-1-101;
 - (d) any other authority that has responsibility for the detection, investigation, or prosecution of a qualifying crime or criminal activity; and
 - (e) an agency that has criminal detection or investigative jurisdiction in the agency's respective areas of expertise, including:
 - (i) the Division of Child and Family Services; and
 - (ii) the Labor Commission.
- (2) "Certifying official" means:
- (a) the head of the certifying entity;
 - (b) a person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency;
 - (c) a judge; or
 - (d) any other certifying official defined under 8 C.F.R. Sec. 214.14.
- (3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
- (4) (a) "Qualifying criminal activity" means the same as that term is defined in 8 C.F.R. Sec. 214.14.
- (b) "Qualifying criminal activity" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal activity described in Subsection (4)(a), and the attempt, conspiracy, or solicitation to commit any of those offenses.

Section 6. Section **78A-1-101** is amended to read:

78A-1-101. Courts of this state -- Courts of record.

- (1) The following are the courts ~~[of justice]~~ of this state:
 - (a) the Supreme Court;
 - (b) the Court of Appeals;
 - (c) the Business and Chancery Court;
 - ~~[(c)]~~ (d) the district courts;
 - ~~[(d)]~~ (e) the juvenile courts; and
 - ~~[(e)]~~ (f) the justice courts.
- (2) All courts are courts of record, except the justice courts, which are courts not of

HB0216S01 compared with HB0216

record.

Section 7. Section **78A-1-102** is amended to read:

78A-1-102. Trial courts of record -- Divisions.

~~{~~~~1~~~~}~~ (1) ~~{~~~~}~~ The district and juvenile courts ~~[shall be]~~ are divided into eight geographical divisions:

~~{~~~~1~~~~}~~ (a) First Judicial District [=], which includes Box Elder, Cache, and Rich Counties;

~~{~~~~2~~~~}~~ (b) Second Judicial District [=], which includes Weber, Davis, and Morgan Counties;

~~{~~~~3~~~~}~~ (c) Third Judicial District [=], which includes Salt Lake, Summit, and Tooele Counties;

~~{~~~~4~~~~}~~ (d) Fourth Judicial District [=], which includes Utah, Wasatch, Juab, and Millard Counties;

~~{~~~~5~~~~}~~ (e) Fifth Judicial District [=], which includes Beaver, Iron, and Washington Counties;

~~{~~~~6~~~~}~~ (f) Sixth Judicial District [=], which includes Garfield, Kane, Piute, Sanpete, Sevier, and Wayne Counties;

~~{~~~~7~~~~}~~ (g) Seventh Judicial District [=], which includes Carbon, Emery, Grand, and San Juan Counties; and

~~{~~~~8~~~~}~~ (h) Eighth Judicial District [=], which includes Daggett, Duchesne, and Uintah Counties.

(2) The Business and Chancery Court is not divided into geographical divisions.

Section 8. Section **78A-1-103.5** is enacted to read:

78A-1-103.5. Number of Business and Chancery Court judges.

The Business and Chancery Court shall consist of ~~{two judges}~~ one judge.

Section 9. Section **78A-2-103** is amended to read:

78A-2-103. Definitions.

As used in this chapter:

(1) "Conference" means the annual statewide judicial conference established by Section 78A-2-111.

(2) "Council" means the Judicial Council ~~[established by Article VIII, Sec. 12, Utah~~

HB0216S01 compared with HB0216

Constitution].

(3) "Courts" mean all courts of this state, including all courts of record and not of record.

(4) "Judicial Council" means the Judicial Council established by Utah Constitution, Article VIII, Section 12.

Section 10. Section **78A-2-104** is amended to read:

78A-2-104. Judicial Council -- Creation -- Members -- Terms and election -- Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.

(1) The Judicial Council~~[, established by Article VIII, Section 12, Utah Constitution, shall be]~~ is composed of:

(a) the chief justice of the Supreme Court;

(b) one member elected by the justices of the Supreme Court;

(c) one member elected by the judges of the Court of Appeals;

(d) one member elected by the judges of the Business and Chancery Court;

~~[(d)]~~ (e) six members elected by the judges of the district courts;

~~[(e)]~~ (f) three members elected by the judges of the juvenile courts;

~~[(f)]~~ (g) three members elected by the justice court judges; and

~~[(g)]~~ (h) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Utah State Bar in good standing at the time of election by the Board of Commissioners.

(2) The Judicial Council shall have a seal.

(3) (a) The chief justice of the Supreme Court shall act as presiding officer of the ~~[council]~~ Judicial Council and chief administrative officer for the courts.

(b) The chief justice shall vote only in the case of a tie.

~~[(b)]~~ (4) (a) All members of the ~~[council]~~ Judicial Council shall serve for three-year terms.

~~[(a)]~~ (b) If a ~~[council]~~ Judicial Council member should die, resign, retire, or otherwise fail to complete a term of office, the appropriate constituent group shall elect a member to complete the term of office.

~~[(b)]~~ (c) In courts having more than one member, the members shall be elected to staggered terms.

HB0216S01 compared with HB0216

~~[(iii)]~~

(d) The ~~[person]~~ individual elected by the Board of Commissioners under Subsection (1)(h) may complete a three-year term of office on the Judicial Council even though the ~~[person]~~ individual ceases to be a member or ex officio member of the Board of Commissioners.

(e) The ~~[person]~~ individual elected by the Board of Commissioners under Subsection (1)(h) shall be an active member of the Utah State Bar in good standing for the entire term of the Judicial Council.

~~[(c)]~~ (f) Elections ~~[shall be]~~ are held under rules made by the Judicial Council.

~~[(4)]~~ (5) (a) The ~~[council]~~ Judicial Council is responsible for the development of uniform administrative policy for the courts throughout the state.

(b) The presiding officer of the Judicial Council is responsible for the implementation of the policies developed by the ~~[council]~~ Judicial Council and for the general management of the courts, with the aid of the state court administrator.

(c) The ~~[council]~~ Judicial Council has authority and responsibility to:

~~[(a)]~~ (i) establish and assure compliance with policies for the operation of the courts, including uniform rules and forms; and

~~[(b)]~~ (ii) publish and submit to the governor, the chief justice of the Supreme Court, and the Legislature an annual report of the operations of the courts, which shall include financial and statistical data and may include suggestions and recommendations for legislation.

~~[(5)]~~ (6) The ~~[council]~~ Judicial Council shall establish standards for the operation of the courts of the state, including~~[-but not limited to,]~~ facilities, court security, support services, and staff levels for judicial and support personnel.

~~[(6)]~~ (7) The ~~[council]~~ Judicial Council shall by rule:

(a) establish the time and manner for destroying court records, including computer records~~[-and shall]~~; and

(b) establish retention periods for ~~[these]~~ court records.

~~[(7)]~~ (8) (a) Consistent with the requirements of judicial office and security policies, the ~~[council]~~ Judicial Council shall establish procedures to govern the assignment of state vehicles to public officers of the judicial branch.

(b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and

HB0216S01 compared with HB0216

may be assigned for unlimited use, within the state only.

~~[(8)]~~ (9) (a) The ~~[council]~~ Judicial Council shall:

(i) advise judicial officers and employees concerning ethical issues; and ~~[shall]~~

(ii) establish procedures for issuing informal and formal advisory opinions on ~~[these]~~ ethical issues.

(b) Compliance with an informal opinion is evidence of good faith compliance with the Code of Judicial Conduct.

(c) A formal opinion constitutes a binding interpretation of the Code of Judicial Conduct.

~~[(9)]~~ (10) (a) The ~~[council]~~ Judicial Council shall establish written procedures authorizing the presiding officer of the ~~[council]~~ Judicial Council to appoint judges of courts of record by special or general assignment to serve temporarily in another level of court in a specific court or generally within that level.

(b) The appointment ~~[shall be for a specific period and shall be]~~ under Subsection (10)(a) shall be:

(i) for a specific period of time; and

(ii) reported to the ~~[council]~~ Judicial Council.

~~[(b)]~~ (c) ~~[These procedures shall be developed]~~ The Judicial Council shall develop the procedures described in this Subsection (10)(a) in accordance with Subsection [78A-2-107(10)] 78A-2-107(2) regarding the temporary appointment of judges.

~~[(10)]~~ (11) (a) The Judicial Council may by rule designate municipalities in addition to those designated by statute as a location of a trial court of record.

(b) There shall be at least one court clerk's office open during regular court hours in each county.

(c) Any trial court of record may hold court in any municipality designated as a location of a court of record.

~~[(11)]~~ (12) The Judicial Council shall by rule determine whether the administration of a court ~~[shall be]~~ is the obligation of the Administrative Office of the Courts or whether the Administrative Office of the Courts should contract with local government for court support services.

~~[(12)]~~ (13) The Judicial Council may by rule direct that a district court location be

HB0216S01 compared with HB0216

administered from another court location within the county.

~~[(13)]~~ (14) (a) The Judicial Council shall:

(i) establish the Office of Guardian Ad Litem^[5] in accordance with Title 78A, Chapter 2, Part 8, Guardian Ad Litem; and

(ii) establish and supervise a Guardian Ad Litem Oversight Committee.

(b) The Guardian Ad Litem Oversight Committee described in Subsection ~~[(13)(a)(ii)]~~ (14)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection ~~[(13)(a)(i)]~~ (14)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and federal law, regulation, policy, and court rules.

~~[(14)]~~ (15) The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Health and Human Services, the part of the state case registry that contains records of each support order established or modified in the state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

Section 11. Section **78A-2-107** is amended to read:

78A-2-107. Court administrator -- Powers, duties, and responsibilities.

~~{~~ — ~~}~~ Under the general supervision of the presiding officer of the Judicial Council, and within the policies established by the ~~[council;]~~ the Judicial Council:

(1) the state court administrator shall:

~~[(1)]~~ (a) organize and administer all of the nonjudicial activities of the courts;

~~[(2)]~~ (b) assign, supervise, and direct the work of the nonjudicial officers of the courts;

~~[(3)]~~ (c) implement the standards, policies, and rules established by the ~~[council]~~

Judicial Council;

~~[(4)]~~ (d) formulate and administer a system of personnel administration, including in-service training programs;

~~[(5)]~~ (e) prepare and administer the state judicial budget, fiscal, accounting, and procurement activities for the operation of the courts of record~~[, and]~~;

(f) assist ~~[justices']~~ justice courts in ~~[their]~~ budgetary, fiscal, and accounting procedures;

~~[(6)]~~ (g) conduct studies of the business of the courts, including the preparation of recommendations and reports relating to ~~[them]~~ the studies;

HB0216S01 compared with HB0216

~~[(7)]~~ (h) develop uniform procedures for the management of court business, including the management of court calendars;

~~[(8)]~~ (i) maintain liaison with the governmental and other public and private groups having an interest in the administration of the courts;

~~[(9)]~~ (j) establish uniform policy concerning vacations and sick leave for judges and nonjudicial officers of the courts;

~~[(10)]~~ (k) establish uniform hours for court sessions throughout the state [~~and may, with the consent of the presiding officer of the Judicial Council, call and appoint justices or judges of courts of record to serve temporarily as Court of Appeals, district court, or juvenile court judges and set reasonable compensation for their services~~];

~~[(11)]~~ (l) when necessary for administrative reasons, change the county for trial of any case if no party to the litigation files timely objections to this change;

~~[(12)]~~ (m) ~~[(a)]~~ (i) organize and administer a program of continuing education for judges and support staff, including training for justice court judges; and

~~[(b)]~~ (ii) ensure that any training or continuing education described in Subsection ~~[(12)(a)]~~ (1)(m)(i) complies with Title 63G, Chapter 22, State Training and Certification Requirements;

~~[(13)]~~ (n) provide for an annual meeting for each level of the courts of record[;] and the annual judicial conference; and

~~[(14)]~~ (o) perform other duties as assigned by the presiding officer of the [~~council~~] Judicial Council; and

(2) with the consent of the presiding officer of the Judicial Council, the state court administrator may:

(a) call and appoint a justice or judge of a court of record to serve temporarily as a judge of the Court of Appeals, the Business and Chancery Court, a district court, or a juvenile court; and

(b) set reasonable compensation for the service of a justice or judge under Subsection (2)(a).

Section 12. Section **78A-2-108** is amended to read:

78A-2-108. Assistants for state court administrator -- Appointment of trial court executives.

HB0216S01 compared with HB0216

(1) The state court administrator, with the approval of the presiding officer of the [~~council~~] Judicial Council, is responsible for the establishment of positions and salaries of assistants as necessary to enable the state court administrator to perform the powers and duties vested in the state court administrator by this chapter, including the positions of appellate court administrator, business and chancery court administrator, district court administrator, juvenile court administrator, and [~~justices'~~] justice court administrator [~~, whose appointments shall be made by the state court administrator~~].

(2) The state court administrator shall appoint an appellate court administrator, a business and chancery court administrator, a district court administrator, a juvenile court administrator, and a justice court administrator with the concurrence of the respective boards as established by the [~~council~~] Judicial Council.

[~~(2)~~] (3) (a) The district court administrator, with the concurrence of the presiding judge of a district or the district court judge in single judge districts, may appoint a trial court executive in each district [~~a trial court executive~~].

(b) The trial court executive may appoint, subject to budget limitations, necessary support personnel including clerks, research clerks, secretaries, and other persons required to carry out the work of the court.

(c) The trial court executive shall supervise the work of all nonjudicial court staff and serve as administrative officer of the district.

[~~(3)~~] (4) Administrators and assistants appointed under this section [~~shall be~~] are known collectively as the Administrative Office of the Courts.

Section 13. Section **78A-2-110** is amended to read:

78A-2-110. Databases for judicial boards.

(1) As used in this section, "judicial board" means any judicial branch board, commission, council, committee, working group, task force, study group, advisory group, or other body with a defined limited membership that is created to operate for more than six months by:

- (a) the constitution [~~, by~~];
- (b) statute [~~, by~~];
- (c) judicial order [~~, by~~];
- (d) any justice or judge [~~, by~~];

HB0216S01 compared with HB0216

(e) the Judicial Council~~[-or by]~~;

(f) the state court administrator, a district court administrator, trial court executive, or a business and chancery court administrator; or [by]

(g) any clerk or administrator in the judicial branch of state government.

(2) The Judicial Council shall designate [~~a person from its staff~~] an individual from the Judicial Council's staff to maintain a computerized [~~data base~~] database containing information about all judicial boards.

(3) The [~~person~~] individual designated to maintain the [~~data base~~] database shall:

(a) ensure that the [~~data base~~] database contains:

~~[(a)]~~ (i) the name of the judicial board;

~~[(b)]~~ (ii) the statutory or constitutional authority for the creation of the judicial board;

~~[(c)]~~ (iii) the court or other judicial entity under whose jurisdiction the judicial board operates or with which the judicial board is affiliated, if any;

~~[(d)]~~ (iv) the name, address, gender, telephone number, and county of each [~~person~~] individual currently serving on the judicial board, along with a notation of all vacant or unfilled positions;

~~[(e)]~~ (v) the title of the position held by the [~~person~~] individual who appointed each member of the judicial board;

~~[(f)]~~ (vi) the length of the term to which each member of the judicial board was appointed and the month and year that each judicial board member's term expires;

~~[(g)]~~ (vii) the organization, interest group, profession, local government entity, or geographic area that the member of the judicial board represents, if any;

~~[(h)]~~ (viii) whether or not the judicial board allocates state or federal funds and the amount of those funds allocated during the last fiscal year;

~~[(i)]~~ (ix) whether the judicial board is a policy board or an advisory board;

~~[(j)]~~ (x) whether or not the judicial board has or exercises rulemaking authority; and

~~[(k)]~~ (xi) any compensation and expense reimbursement that members of the executive board are authorized to receive[-];

~~[(4) The person designated to maintain the data base shall:]~~

~~[(a)]~~ (b) make the information contained in the [~~data base~~] database available to the public upon request; [~~and~~]

HB0216S01 compared with HB0216

~~[(b)]~~ (c) cooperate with other entities of state government to publish the data or useful summaries of the data[-];

~~[(5)]~~

~~[(a)]~~ (d) ~~[The person designated to maintain the data bases shall]~~ prepare, publish, and distribute an annual report by April 1 of each year that includes, as of March 1 of that year:

(i) the total number of judicial boards;

(ii) the name of each of those judicial boards and the court, council, administrator, executive, or clerk under whose jurisdiction the executive board operates or with which the judicial board is affiliated, if any;

(iii) for each court, council, administrator, executive, or clerk, the total number of judicial boards under the jurisdiction of or affiliated with that court, council, administrator, executive, or clerk;

(iv) the total number of members for each of those judicial boards;

(v) whether each board is a policymaking board or an advisory board and the total number of policy boards and the total number of advisory boards; and

(vi) the compensation, if any, paid to the members of each of those judicial boards[-];

and

~~[(b)]~~ (e) ~~[The person designated to maintain the data bases shall]~~ distribute copies of the report described in Subsection (3)(d) to:

(i) the chief justice of the Utah Supreme Court;

(ii) the state court administrator;

(iii) the governor;

(iv) the president of the Utah Senate;

(v) the speaker of the Utah House;

(vi) the Office of Legislative Research and General Counsel; and

(vii) any other persons who request a copy of the annual report.

Section 14. Section **78A-2-113** is amended to read:

78A-2-113. Judicial hiring freeze authorized.

(1) As used in this section, "General Fund budget deficit" means a situation where General Fund appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the

HB0216S01 compared with HB0216

General Fund in that fiscal year.

(2) During a General Fund budget deficit, the governor, president of the Senate, speaker of the House, and chief justice of the Supreme Court, may, by unanimous vote, implement a judicial hiring freeze for judicial vacancies for:

- (a) a juvenile court district with three or more juvenile court judges;
- (b) a district court district with three or more district court judges;
- (c) all Business and Chancery Court judges;
- ~~[(c)]~~ (d) all appellate court judges; or
- ~~[(d)]~~ (e) any combination of Subsections (2)(a) through ~~[(c)]~~ (d).

(3) In implementing a judicial hiring freeze, the governor, president of the Senate, speaker of the House, and chief justice of the Supreme Court shall:

- (a) establish the length of that hiring freeze; and
- (b) ensure that the hiring freeze lasts at least 90 days, but not longer than the last day of the annual general session of the Legislature.

Section 15. Section **78A-2-202** is amended to read:

78A-2-202. Authority of court.

(1) ~~[All courts of justice have]~~ A court of this state has the authority necessary to exercise ~~[their]~~ the court's jurisdiction.

(2) If a procedure for an action is not established, a process may be adopted that conforms with the apparent intent of the statute or rule of procedure.

Section 16. Section **78A-2-204** is amended to read:

78A-2-204. Judicial Council to approve court seals.

The Judicial Council shall approve a seal for all courts of ~~[justice]~~ this state.

Section 17. Section **78A-2-208** is amended to read:

78A-2-208. Sittings of courts -- To be public -- Notice to public of recording -- Right to exclude in certain cases.

(1) The sittings of every court ~~[of justice]~~ of this state are public, except as provided in Subsections (3) and (4).

(2) The Judicial Council shall require that notice be given to the public that the proceedings are being recorded when an electronic or digital recording system is being used during court proceedings.

HB0216S01 compared with HB0216

(3) The court may, in [~~its~~] the court's discretion, during the examination of a witness exclude any and all other witnesses in the proceedings.

(4) In an action of divorce, criminal conversation, seduction, abortion, rape, or assault with intent to commit rape, the court may, in [~~its~~] the court's discretion, exclude all persons who do not have a direct interest in the proceedings, except jurors, witnesses and officers of the court.

Section 18. Section **78A-2-211** is amended to read:

78A-2-211. Court days.

[~~Courts of justice~~] All courts of this state are open and judicial business may be transacted on any day, except as provided in Section 78A-2-212.

Section 19. Section **78A-2-213** is amended to read:

78A-2-213. Proceedings unaffected by vacancy in office of judge.

No proceeding in any court of [~~justice~~] this state is affected by a vacancy in the office of all or any of the judges[;] or by the failure of a term of a judge.

Section 20. Section ~~{78A-2-802}~~ 78A-2-301.1 is ~~{amended}~~ enacted to read:

78A-2-301.1. Civil fee for Business and Chancery Court.

(1) A party shall pay a fee of \$500 at the time that the party files:

(a) a civil complaint or petition in the Business a Chancery Court; or

(b) a motion to transfer an action from the district court to the Business and Chancery

Court.

(2) The fee described in Subsection (1) is in addition to any filing fee that a party must pay under Section 78A-2-301.

(3) All fees collected under this section are paid to the General Fund.

Section 21. Section **78A-2-802** is amended to read:

78A-2-802. Office of Guardian Ad Litem -- Appointment of director -- Duties of director -- Contracts in second, third, and fourth districts.

(1) There is created the Office of Guardian Ad Litem under the direct supervision of the Guardian Ad Litem Oversight Committee described in Subsection [~~78A-2-104(13)~~] 78A-2-104(14).

(2) (a) The Guardian Ad Litem Oversight Committee shall appoint one individual to serve full time as the guardian ad litem director for the state.

HB0216S01 compared with HB0216

(b) The guardian ad litem director shall:

(i) serve at the pleasure of the Guardian Ad Litem Oversight Committee, in consultation with the state court administrator;

(ii) be an attorney licensed to practice law in this state and selected on the basis of:

(A) professional ability;

(B) experience in abuse, neglect, and dependency proceedings;

(C) familiarity with the role, purpose, and function of guardians ad litem in both juvenile and district courts; and

(D) ability to develop training curricula and reliable methods for data collection and evaluation; and

(iii) before or immediately after the director's appointment, be trained in nationally recognized standards for an attorney guardian ad litem.

(3) The guardian ad litem director shall:

(a) establish policy and procedure for the management of a statewide guardian ad litem program;

(b) manage the guardian ad litem program to assure that a minor receives qualified guardian ad litem services in an abuse, neglect, or dependency proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with state and federal law and policy;

(c) develop standards for contracts of employment and contracts with independent contractors, and employ or contract with attorneys licensed to practice law in this state, to act as attorney guardians ad litem in accordance with Section 78A-2-803;

(d) develop and provide training programs for volunteers in accordance with the United States Department of Justice National Court Appointed Special Advocates Association standards;

(e) develop and update a guardian ad litem manual that includes:

(i) best practices for an attorney guardian ad litem; and

(ii) statutory and case law relating to an attorney guardian ad litem;

(f) develop and provide a library of materials for the continuing education of attorney guardians ad litem and volunteers;

(g) educate court personnel regarding the role and function of guardians ad litem;

HB0216S01 compared with HB0216

(h) develop needs assessment strategies, perform needs assessment surveys, and ensure that guardian ad litem training programs correspond with actual and perceived needs for training;

(i) design and implement evaluation tools based on specific objectives targeted in the needs assessments described in Subsection (3)(h);

(j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee and the Child Welfare Legislative Oversight Panel created in Section 36-33-102 regarding:

(i) the development, policy, and management of the statewide guardian ad litem program;

(ii) the training and evaluation of attorney guardians ad litem and volunteers; and

(iii) the number of minors served by the office;

(k) hire, train, and supervise investigators; and

(l) administer the program of private attorney guardians ad litem established under Section 78A-2-705.

(4) A contract of employment or independent contract described in Subsection (3)(c) shall provide that an attorney guardian ad litem in the second, third, and fourth judicial districts devote the attorney guardian's ad litem full time and attention to the role of attorney guardian ad litem, having no clients other than the minors whose interest the attorney guardian ad litem represents within the guardian ad litem program.

Section ~~{21}~~22. Section 78A-5-107 is amended to read:

78A-5-107. Court commissioners -- Qualifications -- Appointment -- Functions governed by rule.

(1) (a) Court commissioners are quasi-judicial officers of courts of record and have limited judicial authority as provided by this section and rules of the Judicial Council.

(b) Court commissioners serve full-time and are subject to the restrictions of Section 78A-2-221, which prohibits the practice of law.

(2) (a) The Judicial Council shall appoint court commissioners with the concurrence of a majority of the judges of trial courts in the district the court commissioner primarily serves.

(b) The Judicial Council may assign court commissioners appointed under this section to serve in one or more judicial districts.

(3) A person appointed as a court commissioner shall have the following

HB0216S01 compared with HB0216

qualifications:

- (a) be 25 years [~~of age~~] old or older;
- (b) be a citizen of the United States;
- (c) be a resident of this state while serving as court commissioner;
- (d) be admitted to the practice of law in this state; and
- (e) possess ability and experience in the areas of law in which the commissioner will

be serving.

(4) A court commissioner shall take and subscribe to the oath of office as required by Article IV, Sec. 10, Utah Constitution, prior to assuming the duties of the office.

(5) Court commissioners shall:

(a) comply with applicable constitutional and statutory provisions, court rules and procedures, and rules of the Judicial Council;

(b) comply with the Code of Judicial Conduct to the same extent as full-time judges; and

(c) successfully complete orientation and education programs as required by the Judicial Council.

(6) The presiding judge of the district the commissioner primarily serves:

(a) shall develop a performance plan for the court commissioner and annually conduct an evaluation of the commissioner's performance, and shall provide the plan and evaluations to the Judicial Council upon request; and

(b) is responsible for the day-to-day supervision of the court commissioner.

(7) The Judicial Council shall:

(a) establish by rule procedures for the investigation and review of complaints and the discipline and removal of court commissioners; and

(b) evaluate court commissioners under the requirements of Subsection [~~78A-2-104(5)~~] 78A-2-104(6).

(8) The Judicial Council shall make uniform statewide rules defining the duties and authority of court commissioners for each level of court they serve. The rules shall not exceed constitutional limitations upon the delegation of judicial authority. The rules shall at a minimum establish:

(a) types of cases and matters commissioners may hear;

HB0216S01 compared with HB0216

- (b) types of orders commissioners may recommend;
- (c) types of relief commissioners may recommend; and
- (d) procedure for timely judicial review of recommendations and orders made by court commissioners.

Section ~~22~~23. Section 78A-5a-101 is enacted to read:

CHAPTER 5a. BUSINESS AND CHANCERY COURT

Part 1. General Provisions

78A-5a-101. Definitions.

- (1) "Action" means a lawsuit or case commenced in a court.
- (2) (a) "Asset" means property of all kinds, real or personal and tangible or intangible.
 - (b) "Asset" includes:
 - (i) cash, except for any reasonable compensation or salary for services rendered;
 - (ii) stock or other investments;
 - (iii) goodwill;
 - (iv) an ownership interest;
 - (v) a license;
 - (vi) a cause of action; and
 - (vii) any similar property.
- (3) "Beneficial shareholder" means the same as that term is defined in Section 16-10a-1301.
- (4) "Blockchain" means a cryptographically secured, chronological, and decentralized consensus ledger or consensus database maintained via Internet, peer-to-peer network, or other interaction.
- (5) "Blockchain technology" means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.
- (6) "Board" means the board of directors or trustees of a corporation.
- (7) "Business" means any enterprise carried on for the purpose of gain or economic profit.
- (8) (a) "Business organization" means an organization in any form that is primarily engaged in business.
 - (b) "Business organization" includes:

HB0216S01 compared with HB0216

- (i) an association;
- (ii) a corporation;
- (iii) a joint stock company;
- (iv) a joint venture;
- (v) a limited liability company;
- (vi) a mutual fund trust;
- (vii) a partnership; or
- (viii) any other similar form of an organization described in Subsections (8)(b)(i)

through (vii).

(c) "Business organization" does not include a governmental entity as defined in Section 63G-7-102.

(9) "Claim" means a written demand or assertion in an action.

(10) "Consumer contract" means a contract entered into by a consumer for the purchase of goods or services for personal, family, or household purposes.

(11) "Court" means the Business and Chancery Court established in Section 78A-5a-102.

(12) "Decentralized autonomous organization" means an organization that is created by a smart contract deployed on a permissionless blockchain that implements specific decision-making or governance rules enabling individuals to coordinate themselves in a decentralized fashion.

(13) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(14) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(15) "Health care" means the same as that term is defined in Section 78B-3-403.

(16) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(17) "Monetary damages" does not include:

(a) punitive or exemplary damages;

(b) prejudgment or postjudgment interest; or

(c) attorney fees or costs.

(18) "Officer" means an individual designated by a board, or other governing body of a business organization, to act on behalf of the business organization.

HB0216S01 compared with HB0216

(19) "Owner" means a person who, directly or indirectly, owns or controls an ownership interest in a business organization regardless of whether the person owns or controls the ownership interest through another person, a power of attorney, or another business organization.

(20) "Ownership interest" means an interest owned in a business organization, including any shares, membership interest, partnership interest, or governance or transferable interest.

(21) "Permissionless blockchain" means a public distributed ledger that allows an individual to transact and produce blocks in accordance with the blockchain protocol, whereby the validity of the block is not determined by the identity of the producer.

(22) "Personal injury" means a physical or mental injury, including wrongful death.

(23) "Professional" means an individual whose profession requires a license, registration, or certification on the basis of experience, education, testing, or training.

(24) "Security" means the same as that term is defined in Section 61-1-13.

(25) "Shareholder" means the record shareholder or the beneficial shareholder.

(26) "Smart contract" means code deployed on a permissionless blockchain that consists of a set of predefined instructions executed in a distributed manner by the nodes of an underlying blockchain network that produces a change on the blockchain network.

(27) "Record shareholder" means the same as that term is defined in Section 16-10a-1301.

(28) "Trustee" means a person that holds or administers an ownership interest on behalf of a third party.

Section ~~{23}~~24. Section **78A-5a-102** is enacted to read:

78A-5a-102. Establishment of the Business and Chancery Court -- Organization and status.

(1) There is established the Business and Chancery Court for the state.

(2) The Business and Chancery Court is a court of record.

(3) The Business and Chancery Court is a trial court with limited and statewide jurisdiction over actions and claims as described in Section 78A-5a-103.

(4) The Business and Chancery Court is of equal status with the district and juvenile courts of the state.

HB0216S01 compared with HB0216

(5) The Business and Chancery Court is established as a forum for the resolution of all matters properly brought before the Business and Chancery Court and consistent with applicable constitutional and statutory requirements of due process.

(6) The Business and Chancery Court shall have a seal.

(7) The judges and clerks of the Business and Chancery Court have the power to administer oaths and affirmations.

Section ~~(24)~~25. Section **78A-5a-103** is enacted to read:

78A-5a-103. Concurrent jurisdiction of the Business and Chancery Court --

Exceptions.

(1) The Business and Chancery Court has jurisdiction, concurrent with the district court, over an action:

(a) seeking monetary damages of at least \$300,000 or seeking solely equitable relief;
and

(b) (i) with a claim arising from:

(A) a breach of a contract;

(B) a breach of a fiduciary duty;

(C) a dispute over the internal affairs or governance of a business organization;

(D) the sale, merger, or dissolution of a business organization;

(E) the sale of substantially all of the assets of a business organization;

(F) the receivership or liquidation of a business organization;

(G) a dispute over liability or indemnity between or among owners of the same business organization;

(H) a dispute over liability or indemnity of an officer or owner of a business organization;

(I) a tortious or unlawful act committed against a business organization, including an act of unfair competition, tortious interference, or misrepresentation or fraud;

(J) a dispute between a business organization and an insurer regarding a commercial insurance policy;

(K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

(L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade Secrets Act;

HB0216S01 compared with HB0216

(M) the misappropriation of intellectual property;

(N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or confidentiality agreement, regardless of whether the agreement is oral or written;

(O) a relationship between a franchisor and a franchisee;

(P) the purchase or sale of a security or an allegation of security fraud;

(Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous organization;

(R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or

(S) a contract with a forum selection clause for a chancery, business, or commercial court of this state or any other state;

(ii) with a malpractice claim concerning services that a professional provided to a business organization; or

(iii) that is a shareholder derivative action.

(2) The Business and Chancery Court may exercise supplemental jurisdiction over all claims in an action that the Business and Chancery Court has jurisdiction under Subsection (1), except that the Business and Chancery Court may not exercise jurisdiction over:

(a) any claim arising from:

(i) a consumer contract;

(ii) a personal injury, including any personal injury relating to or arising out of health care rendered or which should have been rendered by the health care provider;

(iii) a wrongful termination of employment or a prohibited or discriminatory employment practice;

(iv) a violation of Title 13, Chapter 7, Civil Rights;

(v) Title 30, Husband and Wife;

(vi) Title 63G, Chapter 4, Administrative Procedures Act;

(vii) Title 78B, Chapter 6, Part 1, Utah Adoption Act;

(viii) Title 78B, Chapter 6, Part 5, Eminent Domain;

(ix) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer;

(x) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(xi) Title 78B, Chapter 12, Utah Child Support Act;

(xii) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement

HB0216S01 compared with HB0216

Act;

(xiii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;

(xiv) Title 78B, Chapter 15, Uniform Parentage Act;

(xv) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act; or

(xvi) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and

Visitation Act; or

(b) any criminal matter, unless the criminal matter is an act or omission of contempt that occurs in an action before the Business and Chancery Court.

Section ~~{25}~~26. Section **78A-5a-104** is enacted to read:

78A-5a-104. Trier of fact and law -- Demand for jury trial.

(1) The Business and Chancery Court is the trier of fact and law in an action before the Business and Chancery Court.

(2) The Business and Chancery Court shall transfer an action to the district court if a party to the action demands a trial by jury in accordance with the Utah Rules of Civil Procedure.

Section ~~{26}~~27. Section **78A-5a-105** is enacted to read:

78A-5a-105. Venue for the Business and Chancery Court.

(1) Title 78B, Chapter 3a, Venue for Civil Actions, does not apply to an action brought in the Business and Chancery Court.

(2) Any requirement in the Utah Code to file or bring an action in a specific district or county does not apply to an action brought in the Business and Chancery Court.

Section ~~{27}~~28. Section **78A-5a-201** is enacted to read:

Part 2. Administration

78A-5a-201. Judges of the Business and Chancery Court -- Terms.

(1) A judge of the Business and Chancery Court is appointed to initially serve until the first general election held more than three years after the day on which the appointment is effective.

(2) After the initial term described in Subsection (1), the term of office of a judge of the Business and Chancery Court is six years and commences on the first Monday in January following the date of election.

(3) A judge of the Business and Chancery Court whose term expires may serve, upon

HB0216S01 compared with HB0216

request of the Judicial Council, until a successor is appointed and qualified.

Section ~~{28}~~29. Section **78A-5a-202** is enacted to read:

78A-5a-202. Presiding judge - Associate presiding judge -- Compensation --

Powers -- Duties.

(1) (a) The judges of the Business and Chancery Court shall elect a presiding judge from among the members of the court by majority vote of all judges.

(b) The presiding judge shall receive \$2,000 per annum as additional compensation for the period served as presiding judge.

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

(a) implementing policies of the Judicial Council; and

(b) exercising powers and performing administrative duties as authorized by the Judicial Council.

(3) (a) If the Business and Chancery Court has more than two judges, the judges of the Business and Chancery Court may elect an associate presiding judge from among the members of the court by majority vote of all judges.

(b) The associate presiding judge shall receive \$1,000 per annum as additional compensation for the period served as associate presiding judge.

(4) (a) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge.

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

Section ~~{29}~~30. Section **78A-5a-203** is enacted to read:

78A-5a-203. Administrative system -- Case management -- Clerk of the court --

Employees.

(1) (a) There is established the State Business and Chancery Court Administrative System.

(b) The Judicial Council shall administer the operation of the State Business and Chancery Court Administrative System.

(2) The Business and Chancery Court shall develop a case management system that:

(a) ensures judicial accountability for the just and timely disposition of cases; and

HB0216S01 compared with HB0216

(b) provides each judge of the Business and Chancery Court a full judicial workload that accommodates differences in the subject matter or complexity of cases assigned to different judges of the Business and Chancery Court.

(3) The clerk of the Business and Chancery Court shall:

(a) take charge of and safely keep the court seal;

(b) take charge of and safely keep or dispose of all books, papers, and records filed or deposited with the clerk and all other records required by law or the rules of the Judicial Council;

(c) issue all notices, processes, and summonses as authorized by law;

(d) keep a record of all proceedings, actions, orders, judgments, and decrees of the court;

(e) supervise the deputy clerks as required to perform the duties of the clerk's office;
and

(f) perform other duties as required by the presiding judge, the business and chancery court administrator, applicable law, and the rules of the Judicial Council.

(4) All employees, except judges of the Business and Chancery Court, are selected, promoted, and discharged through the state courts personnel system for the Business and Chancery Court under the direction and rules of the Judicial Council.

Section ~~30~~31. Section **78A-5a-204** is enacted to read:

78A-5a-204. Location of the Business and Chancery Court -- Court facilities -- Costs.

(1) The Business and Chancery Court is located in Salt Lake City.

(2) The Business and Chancery Court may perform any of the Business and Chancery Court's functions in any location within the state.

(3) The Judicial Council shall provide, from appropriations made by the Legislature, court space suitable for the conduct of court business for the Business and Chancery Court.

(4) The Judicial Council may, in order to carry out the Judicial Council's obligation to provide facilities for the Business and Chancery Court, lease space to be used by the Business and Chancery Court.

(5) A lease or reimbursement for the Business and Chancery Court must comply with the standards of the Division of Facilities Construction and Management that are applicable to

HB0216S01 compared with HB0216

state agencies.

(6) The cost of salaries, travel, and training required for the discharge of the duties of judges, secretaries of judges or court executives, court executives, and court reporters for the Business and Chancery Court are paid from appropriations made by the Legislature.

Section ~~{31}~~32. Section **78A-5a-205** is enacted to read:

78A-5a-205. Court sessions.

The Business and Chancery Court shall hold court at least once in each quarter of the year.

Section ~~{32}~~33. Section **78A-5a-301** is enacted to read:

Part 3. Business and Chancery Court Proceedings

78A-5a-301. Publication of decisions and orders.

The Business and Chancery Court shall:

(1) publish all final decisions and orders issued by the Business and Chancery Court;

and

(2) make all final decisions and orders public on the Utah Courts' website.

Section ~~{33}~~34. Section **78A-5a-302** is enacted to read:

78A-5a-302. Tentative ruling before oral argument.

The Business and Chancery Court shall provide the parties with a proposed ruling on each motion within 48 hours before the day on which oral argument is held on the motion.

Section ~~{34}~~35. Section **78A-10-101.5** is enacted to read:

78A-10-101.5. Definitions.

As used in this part:

(1) "Commissioner" means a member appointed to a judicial nominating commission.

(2) "Judicial nominating commission" means a commission created under Section

78A-10-201, 78A-10-301, or 78A-10-402.

Section ~~{35}~~36. Section **78A-10-103** is amended to read:

78A-10-103. Procedures governing meetings of judicial nominating commissions.

(1) The Commission on Criminal and Juvenile Justice shall:

(a) in consultation with the Judicial Council, enact rules establishing procedures governing the meetings of [the judicial nominating commissions] a judicial nominating commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

HB0216S01 compared with HB0216

and

(b) ensure that those procedures include:

(i) a minimum recruitment period of at least 30 days but not more than 90 days, unless fewer than nine applications are received for a judicial vacancy, in which case the recruitment period may be extended up to 30 days;

(ii) standards for maintaining the confidentiality of the applications and related documents;

(iii) standards governing the release of applicant names before nomination;

(iv) standards for destroying the records of the names of applicants, applications, and related documents upon completion of the nominating process;

(v) an opportunity for public comment concerning the nominating process, qualifications for judicial office, and individual applicants;

(vi) evaluation criteria for the selection of judicial nominees;

(vii) procedures for taking summary minutes at [~~nominating commission meetings~~] a judicial nominating commission meeting;

(viii) procedures for simultaneously forwarding the names of nominees to the governor, the president of the Senate, and the Office of Legislative Research and General Counsel;

(ix) standards governing a nominating commissioner's disqualification and inability to serve; and

(x) procedures that require the Administrative Office of the Courts to immediately inform the governor when a judge is removed, resigns, or retires.

(2) In determining which of the applicants are the most qualified, [~~the nominating commissions~~] a judicial nominating commission shall determine by a majority vote of the commissioners present which of the applicants best possess the ability, temperament, training, and experience that qualifies them for the office.

(3) (a) Except as provided under Subsection (3)(b):

(i) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy;

(ii) the business and chancery court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and

HB0216S01 compared with HB0216

~~[(ii)]~~ (iii) ~~[trial court nominating commissions]~~ a district and juvenile court nominating commission shall certify to the governor a list of the five most qualified applicants per vacancy.

(b) If a judicial nominating commission is considering applicants for more than one judicial vacancy existing at the same time and for the same court, the judicial nominating commission shall include one additional applicant for each additional vacancy in the court in the list of applicants the judicial nominating commission certifies to the governor.

(4) ~~[Nominating commissions]~~ A judicial nominating commission shall ensure that the list of applicants submitted to the governor:

- (a) meet the qualifications required by law to fill the office; and
- (b) are willing to serve.

(5) In determining which of the applicants are the most qualified, ~~[nominating commissions]~~ a judicial nominating commission may not decline to submit a candidate's name to the governor merely because:

(a) the judicial nominating commission had declined to submit that candidate's name to the governor to fill a previous vacancy;

(b) a previous judicial nominating commission had declined to submit that candidate's name to the governor; or

(c) that a judicial nominating commission or a previous judicial nominating commission had submitted the applicant's name to the governor and the governor selected someone else to fill the vacancy.

(6) A judicial nominating commission may not nominate a justice or judge who was not retained by the voters for the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) ~~[Judicial nominating commissions are]~~ A judicial nominating commission is exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

Section ~~36~~37. Section 78A-10-104 is amended to read:

78A-10-104. Convening of judicial nominating commissions -- Certification to governor of nominees -- Meetings to investigate prospective candidates.

(1) Unless a hiring freeze is implemented in accordance with Section 78A-2-113, the governor shall ensure that:

- (a) the recruitment period to fill a judicial vacancy begins 235 days before the effective

HB0216S01 compared with HB0216

date of a vacancy, unless sufficient notice is not given, in which case the recruitment period shall begin within 10 days of receiving notice;

(b) the recruitment period is a minimum of 30 days but not more than 90 days, unless fewer than nine applications are received, in which case the recruitment period may be extended up to 30 days; and

(c) the chair of the judicial nominating commission having authority over the vacancy shall convene a meeting not more than 10 days after the close of the recruitment period.

(2) The time limits in Subsection (1) shall begin to run the day the hiring freeze ends.

(3) The judicial nominating commission may:

(a) meet as necessary to perform [its] the judicial nominating commission's function;

and

(b) investigate prospective candidates.

(4) Not later than 45 days after convening[~~, the~~]:

(a) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy;

(b) the business and chancery court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and

~~(b)~~ (c) ~~[trial court]~~ a district and juvenile court nominating commission shall certify to the governor a list of the five most qualified applicants per vacancy.

(5) The governor shall fill the vacancy within 30 days after receiving the list of nominees.

(6) If the governor fails to fill the vacancy within 30 days of receiving the list of nominees from the judicial nominating commission, the chief justice of the Supreme Court shall, within 20 days, appoint [~~a person~~] an individual from the list of nominees certified to the governor.

(7) A judicial nominating commission may not nominate [~~a person~~] an individual who has served on a judicial nominating commission within six months of the date that the commission was last convened.

Section ~~37~~38. Section 78A-10-301 is amended to read:

Part 3. District and Juvenile Court Nominating Commissions

78A-10-301. Definitions -- Creation.

HB0216S01 compared with HB0216

(1) As used in this part:

(a) "Commission" means a district and juvenile court nominating commission created in Subsection (2).

(b) "Commissioner" means a member of a district and juvenile court nominating commission created in Subsection (2).

(2) There is created a [~~Trial Court Nominating Commission~~] district and juvenile court nominating commission for each geographical division of the [~~trial courts of record~~] district and juvenile courts under Section 78A-1-102.

~~(2)~~ (3) [~~The Trial Court Nominating Commission~~] A commission shall nominate judges of the district court and the juvenile court within [~~its~~] the commission's geographical division.

Section ~~{38}~~39. Section **78A-10-302** is amended to read:

78A-10-302. Membership.

(1) [~~The Trial Court Nominating Commission~~] A district and juvenile court nominating commission shall consist of seven commissioners, each appointed by the governor to serve a single four-year term.

(2) Each commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah;

(c) be a resident of the geographic division to be served by the commission to which the commissioner is appointed; and

(d) serve until the commissioner's successor is appointed.

(3) The governor may not appoint:

(a) a commissioner to serve successive terms;

(b) a member of the Legislature to serve as a member of a [~~Trial Court Nominating Commission~~] commission; or

(c) more than four commissioners from the same political party to a [~~Trial Court Nominating Commission~~] commission.

(4) The governor shall appoint two commissioners from a list of nominees provided by the Utah State Bar.

(5) The Utah State Bar shall submit:

HB0216S01 compared with HB0216

- (a) six nominees from Districts 2, 3, and 4; and
- (b) four nominees from Districts 1, 5, 6, 7, and 8.
- (6) The governor may reject any list and request a new list of nominees.
- (7) The governor may not appoint more than four persons who are members of the Utah State Bar to a [~~Trial Court Nominating Commission~~] commission.
- (8) The chief justice of the Supreme Court shall appoint another member of the Judicial Council to serve as an ex officio, nonvoting member of each [~~Trial Court Nominating Commission~~] commission.
- (9) The governor shall appoint the chair of each [~~Trial Court Nominating Commission~~] commission from among [~~its~~] the commission's membership.

Section ~~{39}~~40. Section **78A-10-303** is amended to read:

78A-10-303. Procedure.

- (1) Four commissioners are a quorum.
- (2) The governor shall appoint a member of the governor's staff to serve as staff to each [~~Trial Court Nominating Commission~~] commission.
- (3) The governor shall:
 - (a) ensure that each [~~Trial Court Nominating Commission~~] commission follows the rules promulgated by the Commission on Criminal and Juvenile Justice; and
 - (b) resolve any questions regarding those rules.
- (4) A [~~member of a Trial Court Nominating Commission~~] commissioner who is also a member of the Utah State Bar may recuse [~~himself~~] oneself if there is a conflict of interest that makes the member unable to serve.

Section ~~{40}~~41. Section **78A-10-304** is amended to read:

78A-10-304. Vacancies.

- (1) The governor shall fill any vacancy on [~~the Trial Court Nominating Commission~~] a commission.
- (2) If a commissioner is disqualified or otherwise unable to serve, the governor shall appoint a new commissioner of the same political party as the unavailable commissioner.
- (3) If a vacancy occurs among commission members who are also members of the Utah State Bar, the governor shall replace that commissioner with [~~a person~~] an individual from a list of nominees submitted by the Utah State Bar as provided in Section 78A-10-302.

HB0216S01 compared with HB0216

(4) The governor shall ensure that each [~~person~~] individual who is appointed to fill any vacancy in the office of commissioner, other than a vacancy caused by expiration of term, is a member of the same political party as the commissioner whom the [~~person~~] individual replaced.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term of the commissioner being replaced and may not be reappointed.

Section ~~{41}~~42. Section **78A-10-305** is amended to read:

78A-10-305. Expenses -- Per diem and travel.

A [~~member~~] commissioner may not receive compensation or benefits for the [~~member's~~] commissioner's service[;] but may receive per diem and travel expenses in accordance with:

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance [~~pursuant to~~] in accordance with Sections 63A-3-106 and 63A-3-107.

Section ~~{42}~~43. Section **78A-10-401** is enacted to read:

Part 4. Business and Chancery Court Nominating Commission

78A-10-401. Definitions.

As used in this part:

(1) "Commission" means the Business and Chancery Court Nominating Commission created in Section 78A-10-402.

(2) "Commissioner" means an individual appointed by the governor to serve on the Business and Chancery Court Nominating Commission.

Section ~~{43}~~44. Section **78A-10-402** is enacted to read:

78A-10-402. Creation.

- (1) There is created the Business and Chancery Court Nominating Commission.
- (2) The Business and Chancery Court Nominating Commission shall nominate individuals to fill judicial vacancies on the Business and Chancery Court.

Section ~~{44}~~45. Section **78A-10-403** is enacted to read:

78A-10-403. Membership -- Appointment -- Vacancies -- Removal.

HB0216S01 compared with HB0216

(1) (a) The Business and Chancery Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

(b) The commission shall consist of at least two commissioners who are members of the Utah State Bar.

(2) Each commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah; and

(c) serve until the commissioner's successor is appointed.

(3) (a) For the appointment of a commissioner who is a member of the Utah State Bar:

(i) the Utah State Bar shall submit to the governor a list of six nominees to serve as a commissioner; and

(ii) the governor shall appoint a commissioner from the list of nominees provided by the Utah State Bar.

(b) The governor may:

(i) reject the list submitted by the Utah State Bar under Subsection (3)(a); and

(ii) request a new list of nominees from the Utah State Bar.

(4) The governor may not appoint:

(a) a commissioner to serve successive terms;

(b) a member of the Legislature to serve as a member of the commission; or

(c) more than four individuals who are from the same political party to the commission.

(5) The chief justice of the Supreme Court shall appoint a member of the Judicial Council to serve as an ex officio, nonvoting member of the commission.

(6) The governor shall appoint the chair of the commission from among the membership of the commission.

(7) (a) The governor shall fill any vacancy in the commission caused by the expiration of a commissioner's term.

(b) If there is a vacancy among the commissioners who are members of the Utah State Bar, the governor shall replace that commissioner with an individual from a list of nominees submitted by the Utah State Bar in accordance with Subsection (3).

(8) (a) If a commissioner is disqualified or is otherwise unable to serve, the governor

HB0216S01 compared with HB0216

shall appoint a replacement commissioner:

(i) to fill the vacancy for the unexpired term of the unavailable commissioner; and

(ii) who is the same political party as the unavailable commissioner.

(b) A replacement commissioner appointed under Subsection (8)(a) may not be reappointed upon the expiration of the term of service.

(9) The governor shall ensure that each individual who is appointed to fill any vacancy on the commission is a member of the same political party as the commissioner whom the individual replaced.

Section ~~{45}~~46. Section 78A-10-404 is enacted to read:

78A-10-404. Procedure -- Staff -- Rules -- Recusal.

(1) Four commissioners are a quorum.

(2) The governor shall appoint a member of the governor's staff to serve as staff to the commission.

(3) The governor shall:

(a) ensure that the commission follows the rules promulgated by the State Commission on Criminal and Juvenile Justice under Section 78A-10-103; and

(b) resolve any questions regarding the rules described in Subsection (3)(a).

(4) A commissioner who is a member of Utah State Bar may recuse oneself if there is a conflict of interest that makes the commissioner unable to serve.

Section ~~{46}~~47. Section 78A-10-405 is enacted to read:

78A-10-405. Expenses -- Per diem and travel.

A commissioner may not receive compensation or benefits for the commissioner's service but may receive per diem and travel expenses in accordance with:

(1) Section 63A-3-106;

(2) Section 63A-3-107; and

(3) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section ~~{47}~~48. Section 78A-11-102 is amended to read:

78A-11-102. Definitions.

As used in this chapter:

(1) "Commission" means the Judicial Conduct Commission established by Utah

HB0216S01 compared with HB0216

Constitution Article VIII, Section 13, and this chapter.

(2) (a) "Complaint" includes:

(i) a written complaint against a judge; or

(ii) an allegation based on reliable information received in any form, from any source, that alleges, or from which a reasonable inference can be drawn that a judge is in violation of any provision of Utah Constitution Article VIII, Section 13.

(b) "Complaint" does not include an allegation initiated by the commission or its staff.

(3) "Investigation" means an inquiry into an allegation of misconduct, including a search for and examination of evidence concerning the allegations, which begins upon the receipt of a complaint and is completed when either the complaint is dismissed by a majority vote of the commission or when an order is sent to the Supreme Court for its review in accordance with Utah Constitution Article VIII, Section 13.

(4) "Judge" includes the chief justice of the Supreme Court, a justice of the Supreme Court, ~~[an appellate court judge]~~ a judge of the Court of Appeals, a judge of the Business and Chancery Court, a district court judge, an active senior judge, a juvenile court judge, a justice court judge, an active senior justice court judge, and a judge pro tempore of any court of this state.

Section ~~{48}~~49. Section **78A-11-103** is amended to read:

78A-11-103. Judicial Conduct Commission -- Members -- Terms -- Vacancies -- Voting -- Power of chair.

(1) (a) The membership of the commission consists of the following 11 members:

~~[(a)]~~ (i) two members of the House of Representatives to be appointed by the speaker of the House of Representatives for a four-year term, not more than one of whom may be of the same political party as the speaker;

~~[(b)]~~ (ii) two members of the Senate to be appointed by the president of the Senate for a four-year term, not more than one of whom may be of the same political party as the president;

~~[(c)]~~ (iii) two members of, and in good standing with, the Utah State Bar, who shall be appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may reside in the same judicial district;

~~[(d)]~~ (iv) three persons not members of the Utah State Bar, who shall be appointed by

HB0216S01 compared with HB0216

the governor, with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, for four-year terms, not more than two of whom may be of the same political party as the governor; and

~~[(e)]~~ (v) subject to Subsection (1)(b), two judges to be appointed by a majority of the Utah Supreme Court for a four-year term~~[, neither of whom may:]~~.

(b) The two judges appointed under Subsection (1)(a)(v) may not:

(i) be a member of the Utah Supreme Court;

(ii) serve on the same level of court ~~[as the other]~~; and

(iii) ~~[if trial judges;]~~ serve primarily in the same judicial district ~~[as the other]~~ if the judges are district or juvenile court judges.

(2) (a) The terms of the members shall be staggered so that approximately half of the commission expires every two years.

(b) Members of the commission may not serve longer than eight years.

(3) The commission shall establish guidelines and procedures for the disqualification of any member from consideration of any matter. A judge who is a member of the commission or the Supreme Court may not participate in any proceedings involving the judge's own removal or retirement.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the appointing authority for that position for the unexpired term.

(b) If the appointing authority fails to appoint a replacement, the commissioners who have been appointed may act as a commission under all the provisions of this section.

(5) Six members of the commission shall constitute a quorum. Any action of a majority of the quorum constitutes the action of the commission.

(6) (a) At each commission meeting, the chair and executive director shall schedule all complaints to be heard by the commission and present any information from which a reasonable inference can be drawn that a judge has committed misconduct so that the commission may determine by majority vote of a quorum whether the executive director shall draft a written complaint in accordance with Subsection 78A-11-102(2)(b).

(b) The chair and executive director may not act to dismiss any complaint without a majority vote of a quorum of the commission.

(c) A member of the commission described in Subsection ~~[(1)(d)]~~ (1)(a)(iv) shall

HB0216S01 compared with HB0216

comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(7) It is the responsibility of the chair and the executive director to ensure that the commission complies with the procedures of the commission.

(8) The chair shall be nonvoting except in the case of a tie vote.

(9) The chair shall be allowed the actual expenses of secretarial services, the expenses of services for either a court reporter or a transcriber of electronic tape recordings, and other necessary administrative expenses incurred in the performance of the duties of the commission.

(10) Upon a majority vote of the quorum, the commission may:

(a) employ an executive director, legal counsel, investigators, and other staff to assist the commission; and

(b) incur other reasonable and necessary expenses within the authorized budget of the commission and consistent with the duties of the commission.

(11) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

Section ~~49~~ 50. Section **78A-11-106** is amended to read:

78A-11-106. Criminal investigation of a judge -- Administrative leave.

(1) (a) (i) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a misdemeanor or felony under state or federal law has been committed by a judge other than the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to the chief justice of the Supreme Court.

(ii) (A) Unless the allegation is plainly frivolous, the commission shall also immediately refer the allegation of criminal misconduct and any information relevant to the potential criminal violation to the local prosecuting attorney having jurisdiction to investigate and prosecute the crime.

(B) If the local prosecuting attorney receiving the allegation of criminal misconduct of a judge practices before that judge on a regular basis, or has a conflict of interest in investigating the crime, the local prosecuting attorney shall refer the allegation of criminal misconduct to another local or state prosecutor who would not have the same disability or

HB0216S01 compared with HB0216

conflict.

(C) The commission may concurrently proceed with its investigation of the complaint without waiting for the resolution of the criminal investigation by the prosecuting attorney.

(b) The chief justice of the Supreme Court may place [~~a justice of the Supreme Court, an appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore~~] a judge on administrative leave with or without pay if the chief justice has a reasonable basis to believe that the alleged crime occurred, that the [~~justice of the Supreme Court, appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore~~] judge committed the crime, and that the crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.

(2) (a) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a misdemeanor or felony under state or federal law has been committed by the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to two justices of the Supreme Court and the local prosecuting attorney in accordance with Subsection (1)(a)(ii).

(b) Two justices of the Supreme Court may place the chief justice of the Supreme Court on administrative leave with or without pay if the two justices have a reasonable basis to believe that the alleged crime occurred, that the chief justice committed the crime, and that the crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.

(3) (a) If a judge is or has been criminally charged or indicted for a class A misdemeanor or any felony under state or federal law and if the Supreme Court has not already acted under Subsection (1) or (2), the appropriate member or members of the Supreme Court as provided in Subsection (1) or (2), shall place the judge on administrative leave with or without pay pending the outcome of the criminal proceeding.

(b) The state court administrator shall, for the duration of the administrative leave, withhold all employer and employee contributions required under Sections 49-17-301 and 49-18-301.

HB0216S01 compared with HB0216

(c) If the judge is not convicted of the criminal charge, and if after an investigation and final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or compensation for the period of administrative leave, and all contributions withheld under Subsection (3)(b) shall be deposited in accordance with Sections 49-17-301 and 49-18-301.

(4) The chief justice of the Supreme Court or two justices of the Supreme Court who ordered the judge on administrative leave shall order the reinstatement of the judge:

(a) if the prosecutor to whom the allegations are referred by the commission determines no charge or indictment should be filed; or

(b) after final disposition of the criminal case, if the judge is not convicted of a criminal charge and if the commission has not ordered the removal of the judge.

Section ~~{50}~~51. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

(2) The enactment in this bill of Section 78A-5a-103 takes effect on October 1, 2024.

Section 52. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 251, Court Amendments, does not pass.