Representative Stephanie Gricius proposes the following substitute bill:

JOINT RESOLUTION AMENDING RULES OF CIVIL PROCEDURE ON
DISQUALIFICATION OF A JUDGE
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Stephanie Gricius
Senate Sponsor: Keith Grover
LONG TITLE
General Description:
This joint resolution amends Utah Rules of Civil Procedure, Rule 63, regarding the
disqualification of a judge.
Highlighted Provisions:
This joint resolution:
 amends the Utah Rules of Civil Procedure, Rule 63, on disqualifying a judge
without cause and for cause; and
 makes technical and conforming changes.
Special Clauses:
This resolution provides a special effective date.
Utah Rules of Civil Procedure Affected:
AMENDS:
Rule 63, Utah Rules of Civil Procedure
Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each
of the two houses voting in favor thereof:
As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend

1st Sub. (Buff) H.J.R. 8

26 rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of 27 all members of both houses of the Legislature: 28 Section 1. Rule 63, Utah Rules of Civil Procedure is amended to read: 29 Rule 63. Disability or disgualification of a judge. (a) Disgualification of a judge without cause. 30 31 (a) (1) Motion to disgualify without cause. 32 (a) (1) (A) In a civil action pending in a court in a county with seven or more district court judges, each side may file a motion to disqualify one judge without cause. 33 (a) (1) (B) If the motion to disgualify a judge without cause is timely under paragraph 34 35 (a)(2), the motion must be granted. 36 (a) (1) (C) Even if two or more parties on one side of a civil action have adverse or 37 hostile interests, the action, whether single or consolidated, must be treated as only having two 38 sides for purposes of a motion to disqualify a judge without cause. 39 (a) (1) (D) In a civil action, a side is not entitled to more than one disqualification of a 40 judge without cause. 41 (a) (1) (E) Regardless of when a party joins a civil action, a party is not entitled to a motion to disgualify a judge without cause if the motion is untimely under paragraph (a)(2). 42 43 (a) (1) (F) Nothing in this paragraph (a) precludes the right of any party to file a motion 44 to disqualify a judge for cause under paragraph (b). (a) (2) Filing a motion to disqualify a judge without cause. 45 46 (a) (2) (A) In filing a motion to disqualify a judge without cause, a party is not required 47 to state any reason for disqualifying the judge, but the party must attest in good faith that the 48 motion is not being filed: 49 (a) (2) (A) (i) for the purpose to delay any action or proceeding; or (a) (2) (A) (ii) to disgualify the judge on the grounds of race, gender, or religious 50 51 affiliation. 52 (a) (2) (B) The motion must be filed: 53 (a) (2) (B) (i) on the side of a plaintiff or petitioner, within seven days after the day on 54 which a judge is first assigned to the action or proceeding; or (a) (2) (B) (ii) on the side of a defendant or respondent, before or at the time of the first 55 56 filing by the defendant or respondent with the court.

02-07-24 9:17 AM

1st Sub. (Buff) H.J.R. 8

57	(a) (2) (C) A motion to disqualify a judge without cause must be accompanied by a
58	request to submit for decision.
59	(a) (2) (D) Failure to file a timely motion precludes the disqualification of a judge
60	under this paragraph (a).
61	(a) (3) Assignment of action.
62	(a) (3) (A) Upon the filing of a motion under paragraph (a)(1), the judge assigned to the
63	action must take no further action in the case.
64	(a) (3) (B) The action must be promptly reassigned to another judge within the county.
65	(a) (3) (C) If the action is unable to be reassigned to another judge within the county,
66	the action may be transferred to a court in another county in accordance with Rule 42.
67	(a) (4) Exceptions.
68	(a) (4) (A) Notwithstanding paragraphs (a)(1), (a)(2), and (a)(3), a party may not
69	disqualify a judge without cause:
70	(a) (4) (A) (i) in any proceeding regarding a petition for post-conviction relief under
71	Rule 65C;
72	(a) (4) (A) (ii) on a petition to modify child custody, child support, or alimony, unless
73	the judge assigned to the action is not the same judge assigned to any of the previous actions
74	between the parties;
75	(a) (4) (A) (iii) in an action before the Business and Chancery Court;
76	(a) (4) (A) (iv) in an action in which the judge is sitting as a water or tax judge;
77	(a) (4) (A) (v) in an action on remand from an appellate court; or
78	(a) (4) (A) (vi) if an action is unable to be transferred under paragraph (a)(3)(C) to
79	another county in accordance with Rule 42.
80	(b) Disability or disqualification for cause.
81	[(a)] (b) (1) Substitute judge; Prior testimony. If the judge to whom an action has
82	been assigned is unable to perform his or her duties, then any other judge of that district or any
83	judge assigned pursuant to Judicial Council rule is authorized to perform those duties. The
84	judge to whom the case is reassigned may rehear the evidence or some part of it.
85	[(b)] (b) (2) Motion to disqualify; affidavit or declaration.
86	[(b)(1)](b)(2)(A) A party to an action or the party's attorney may file a motion to
87	disqualify a judge <u>for cause</u> . The motion must be accompanied by a certificate that the motion

1st Sub. (Buff) H.J.R. 8

88 is filed in good faith and must be supported by an affidavit or unsworn declaration as described 89 in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act stating facts sufficient to show bias, prejudice or conflict of interest. The motion must also be accompanied by a request to 90 91 submit for decision. 92 $\left[\frac{(b)}{(2)}\right]$ (b) (2) (B) The motion must be filed after commencement of the action, but 93 not later than 21 days after the last of the following: 94 [(b)(2)(A)](b)(2)(B)(i) assignment of the action or hearing to the judge; 95 [(b)(2)(B)] (b) (2) (B) (ii) appearance of the party or the party's attorney; or 96 [(b)(2)(C)](b)(2)(B)(iii) the date on which the moving party knew or should have 97 known of the grounds upon which the motion is based. If the last event occurs fewer than 21 98 days before a hearing, the motion must be filed as soon as practicable. 99 $\left[\frac{b}{3}\right]$ (b) (2) (C) Signing the motion or affidavit or declaration constitutes a certificate under Rule 11 and subjects the party or attorney to the procedures and sanctions of 100 101 Rule 11. 102 $\left[\frac{(b)}{(4)}\right]$ (b) (2) (D) No party may file more than one motion to disqualify in an action, 103 unless the second or subsequent motion is based on grounds that the party did not know of and 104 could not have known of at the time of the earlier motion. 105 $\left[\frac{b}{(5)}\right]$ (b) (2) (E) If timeliness of the motion is determined under paragraph $\left[\frac{b}{(2)}\right]$ 106 (C)] (b) (2) (B) (iii) or paragraph [(b)(4)] (b) (2) (D), the affidavit or declaration supporting the 107 motion must state when and how the party came to know of the reason for disqualification. 108 [(c)] (b) (3) Reviewing judge. 109 [(c)(1)] (b) (3) (A) The judge who is the subject of the motion under this paragraph (b) 110 must, without further hearing or a response from another party, enter an order granting the 111 motion or certifying the motion and affidavit or declaration to a reviewing judge. The judge 112 must take no further action in the case until the motion is decided. If the judge grants the 113 motion, the order will direct the presiding judge of the court to assign another judge to the 114 action or hearing. Assignment in justice court cases will be in accordance with Utah Code of 115 Judicial Administration Rule 9-109. The presiding judge of the court, any judge of the district, 116 or any judge of a court of like jurisdiction may serve as the reviewing judge. 117 $\left[\frac{(c)}{(2)}\right]$ (b) (3) (B) If the reviewing judge finds that the motion and affidavit or declaration are timely filed, filed in good faith and legally sufficient, the reviewing judge shall 118

02-07-24 9:17 AM

- assign another judge to the action or hearing or request the presiding judge to do so.Assignment in justice court cases will be in accordance with Utah Code of Judicial
- 121 Administration Rule 9-109.

[(c) (3)] (b) (3) (C) In determining issues of fact or of law, the reviewing judge may
consider any part of the record of the action and may request of the judge who is the subject of
the motion an affidavit or declaration responding to questions posed by the reviewing judge.
[(c) (4)] (b) (3) (D) The reviewing judge may deny a motion not filed in a timely
manner.
Section 2. Effective date.
As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect

129 upon a two-thirds vote of all members elected to each house.