

Representative Jon Hawkins proposes the following substitute bill:

JUSTICE COURT CHANGES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon Hawkins

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to justice courts.

Highlighted Provisions:

This bill:

- ▶ creates the Justice Court Reform Task Force;
- ▶ provides the membership of the Justice Court Reform Task Force;
- ▶ addresses vacancies, salaries and expenses, staffing, and the duties of the Justice Court Reform Task Force;
- ▶ provides a sunset date for the Justice Court Reform Task Force;
- ▶ clarifies that a justice court is part of the state judiciary;
- ▶ addresses the independence of a justice court from other branches of government for a municipality or county;
- ▶ amends the eligibility requirements for a justice court judge;
- ▶ amends provisions regarding the salary of a justice court judge;
- ▶ repeals a statute regarding an annual review and adjustment of a justice court judge's compensation; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63I-1-236**, as last amended by Laws of Utah 2022, Chapters 175, 247

32 **78A-7-101**, as last amended by Laws of Utah 2012, Chapter 205

33 **78A-7-201**, as last amended by Laws of Utah 2016, Chapter 146

34 **78A-7-206**, as last amended by Laws of Utah 2022, Chapter 276

35 ENACTS:

36 **36-29-112**, Utah Code Annotated 1953

37 REPEALS:

38 **78A-7-207**, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

41 Section 1. Section **36-29-112** is enacted to read:

42 **36-29-112. Justice Court Reform Task Force.**

43 (1) As used in this section, "task force" means the Justice Court Reform Task Force
44 created in Subsection (2).

45 (2) There is created the Justice Court Reform Task Force consisting of the following
46 members:

47 (a) three members of the Senate appointed by the president of the Senate, no more than
48 two of whom may be from the same political party; and

49 (b) four members of the House of Representatives appointed by the speaker of the
50 House of Representatives, no more than three of whom may be from the same political party.

51 (3) (a) The president of the Senate shall designate a member of the Senate appointed
52 under Subsection (2)(a) as a cochair of the task force.

53 (b) The speaker of the House of Representatives shall designate a member of the House
54 of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

55 (4) If a vacancy occurs in the membership of the task force described in Subsection (2),
56 the member shall be replaced in the same manner in which the original appointment was made.

- 57 (5) (a) A majority of the members of the task force constitutes a quorum.
58 (b) The action of a majority of a quorum constitutes an action of the task force.
59 (6) Salaries and expenses of the members of the task force who are legislators shall be
60 paid in accordance with:
61 (a) Section [36-2-2](#);
62 (b) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation
63 Expenses; and
64 (c) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
65 (7) The Office of Legislative Research and General Counsel shall provide staff support
66 to the task force.
67 (8) The task force shall review the court system of this state and make
68 recommendations regarding:
69 (a) the structure and organization of the court system of this state;
70 (b) appeals from the justice court to the district court;
71 (c) qualifications and requirements for justice court judges;
72 (d) the procedures and practices for small claims cases and infractions; and
73 (e) other changes related to justice courts.
74 (9) If the task force recommends legislation, the task force may prepare legislation for
75 consideration by the Legislature at the next general session.
76 (10) On or before November 30 of each year that the task force is in effect, the task
77 force shall provide a report to:
78 (a) the Judiciary Interim Committee; and
79 (b) the Legislative Management Committee.
80 (11) The task force is repealed July 1, 2025.
81 Section 2. Section **63I-1-236** is amended to read:
82 **63I-1-236. Repeal dates: Title 36.**
83 (1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.
84 (2) Section [36-12-20](#) is repealed June 30, 2023.
85 (3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed
86 January 1, 2025.
87 (4) Section [36-29-108](#), Criminal Code Evaluation Task Force, is repealed July 1, 2023.

88 (5) Section 36-29-112, Justice Court Reform Task Force, is repealed July 1, 2025.

89 [~~(5) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee,~~
90 ~~is repealed January 1, 2022.~~]

91 Section 3. Section **78A-7-101** is amended to read:

92 **78A-7-101. Creation of justice court -- Not of record -- Independent branch of**
93 **local government -- Classes of justice.**

94 (1) (a) Under Article VIII, Section 1, Utah Constitution, there is created a court not of
95 record known as the justice court.

96 (b) The judges of this court are justice court judges.

97 (2) A justice court is:

98 (a) a court of this state in accordance with Section 78A-1-101;

99 (b) a part of the state judiciary even though the justice court is funded and staffed by a
100 municipality or county; and

101 (c) independent from the other branches of government for a municipality or county.

102 (3) A justice court may not be treated as part of the executive or legislative branches or
103 offices of a municipality or county.

104 (4) A municipality or county may only operate a justice court as authorized by this
105 chapter.

106 [~~(2)~~] (5) Justice courts shall be divided into the following classes:

107 (a) Class I: 501 or more case filings per month;

108 (b) Class II: 201-500 case filings per month;

109 (c) Class III: 61-200 case filings per month; and

110 (d) Class IV: 60 or fewer case filings per month.

111 Section 4. Section **78A-7-201** is amended to read:

112 **78A-7-201. Justice court judge eligibility -- Mandatory retirement.**

113 (1) A justice court judge shall be:

114 (a) a citizen of the United States;

115 (b) 25 years [~~of age~~] old or older;

116 (c) a resident of Utah for at least three years immediately preceding [~~his~~] the judge's
117 appointment;

118 (d) upon appointment or within a reasonable time after appointment, a resident of the

119 county, an adjacent county, or the judicial district in which the justice court is located; and

120 ~~[(d) a resident of the county in which the court is located or an adjacent county for at~~
121 ~~least six months immediately preceding appointment; and]~~

122 (e) a qualified voter of the county in which the judge resides.

123 (2) (a) On and after May 3, 2023, a justice court judge shall have a degree from a law
124 school that makes one eligible to apply for admission to a bar in any state.

125 (b) A justice court judge holding office on May 3, 2023, who does not meet the
126 qualification described in Subsection (2)(a) may continue in office until the judge resigns,
127 retires, is not retained in a retention election, or is removed from office.

128 (3) Notwithstanding Subsection (2), a justice court judge is not required to be admitted
129 to practice law in the state as a qualification to hold office.

130 ~~[(2) Effective May 10, 2016, a justice court judge is not required to be admitted to~~
131 ~~practice law in the state as a qualification to hold office but:]~~

132 ~~[(a) in counties of the first and second class, a justice court judge shall have a degree~~
133 ~~from a law school that makes one eligible to apply for admission to a bar in any state; and]~~

134 ~~[(b) in counties of the third, fourth, fifth, and sixth class, a justice court judge shall~~
135 ~~have at the minimum a diploma of graduation from high school or its equivalent.]~~

136 ~~[(3)]~~ (4) A justice court judge shall be a person who has demonstrated maturity of
137 judgment, integrity, and the ability to understand and apply appropriate law with impartiality.

138 ~~[(4)]~~ (5) A justice court judge shall retire upon attaining the age of 75 years.

139 (6) If there are not at least two applicants for a justice court judge position who meet
140 the requirement of Subsection (2)(a), the justice court nominating commission may:

141 (a) re-advertise the position; and

142 (b) accept applications from individuals who do not meet the requirement of
143 Subsection (2)(a).

144 ~~[(5) In counties of the first and second class, if there are not at least three applicants for~~
145 ~~a justice court judge position who meet the requirements of Subsection (2)(a), the justice court~~
146 ~~nominating commission shall re-advertise the position, and may accept applications from~~
147 ~~persons who do not meet the requirements of Subsections (1)(d) and (2)(a).]~~

148 ~~[(6) (a) In accordance with Subsection ~~78A-7-202~~(3), the Administrative Office of the~~
149 ~~Courts shall provide notice to all attorneys in the county and adjacent counties when a justice~~

150 ~~court judge position is vacant.]~~

151 ~~[(b) If the justice court nominating commission waives the requirement of Subsection~~
152 ~~(1)(d) in accordance with Subsection (5), the Administrative Office of the Courts shall provide~~
153 ~~notice to all attorneys in the state.]~~

154 ~~[(7) A justice court judge holding office on May 10, 2016, who does not meet the~~
155 ~~qualification in Subsection (2)(a) may continue in the judge's position until the judge resigns,~~
156 ~~retires, is not retained in a retention election, or is removed from office.]~~

157 Section 5. Section **78A-7-206** is amended to read:

158 **78A-7-206. Determination of compensation for justice court judge -- Limits on**
159 **secondary employment -- Prohibition on holding political or elected office -- Penalties.**

160 (1) Every justice court judge shall be paid a fixed compensation determined by the
161 governing body of the respective municipality or county.

162 (a) The governing body of the municipality or county may not set a full-time justice
163 court judge's salary at less than ~~[50%]~~ 70% nor more than 90% of a district court judge's salary.

164 (b) The governing body of the municipality or county shall set a part-time justice court
165 judge's salary as follows:

166 (i) The governing body shall first determine the full-time salary range outlined in
167 Subsection (1)(a).

168 (ii) The caseload of a part-time judge shall be determined by the office of the state
169 court administrator and expressed as a percentage of the caseload of a full-time judge.

170 (iii) The judge's salary shall then be determined by applying the percentage determined
171 in Subsection (1)(b)(ii) against the salary range determined in Subsection (1)(a).

172 (c) A justice court judge shall receive an annual salary adjustment at least equal to the
173 average salary adjustment for all county or municipal employees for the jurisdiction served by
174 the judge.

175 (d) Notwithstanding Subsection (1)(c), a justice court judge may not receive a salary
176 greater than 90% of the salary of a district court judge.

177 (e) A justice court judge employed by more than one entity as a justice court judge may
178 not receive a total salary for service as a justice court judge greater than the salary of a district
179 court judge.

180 (f) A salary described in this Subsection (1) does not include additional compensation

181 provided for a presiding judge or associate presiding judge of a justice court under Section
182 [78A-7-209.5](#).

183 (2) A justice court judge may not appear as an attorney in any:

184 (a) justice court;

185 (b) criminal matter in any federal, state, or local court; or

186 (c) juvenile court case involving conduct which would be criminal if committed by an
187 adult.

188 (3) A justice court judge may not hold any office or employment including contracting
189 for services in any justice agency of state government or any political subdivision of the state
190 including law enforcement, prosecution, criminal defense, corrections, or court employment.

191 (4) A justice court judge may not hold any office in any political party or organization
192 engaged in any political activity or serve as an elected official in state government or any
193 political subdivision of the state.

194 (5) A justice court judge may not own or be employed by any business entity which
195 regularly litigates in small claims court.

196 (6) The Judicial Council shall file a formal complaint with the Judicial Conduct
197 Commission for each violation of this section.

198 Section 6. **Repealer.**

199 This bill repeals:

200 Section [78A-7-207](#), **Compensation -- Annual review and adjustment.**