

JUDICIARY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the judiciary.

Highlighted Provisions:

This bill:

- ▶ provides a repeal date for Title 78A, Chapter 10, Judicial Selection Act;
- ▶ modifies the geographical divisions of the district and juvenile courts;
- ▶ clarifies the effect of modifying the geographical divisions of the district and juvenile courts;
- ▶ modifies the number of judges for the district and juvenile courts in each geographical division;
- ▶ defines terms related to judicial nominating commissions;
- ▶ addresses the selection, appointment, and confirmation of judges to the appellate, district, and juvenile courts of this state;
- ▶ addresses partisan political consideration in regard to the selection, appointment, and confirmation of judges;
- ▶ clarifies the transition process in regard to the creation of new judicial nominating commissions;
- ▶ allows the State Criminal and Juvenile Justice Commission to make rules for judicial nominating commissions;
- ▶ clarifies the process and timeline for the selection, appointment, and confirmation of



- 28 judges to the appellate, district, and juvenile courts of this state;
- 29 ▶ addresses the procedures, meetings, and certification process for judicial nominating
- 30 commissions;
- 31 ▶ addresses the process for the appointment of a judge by the governor;
- 32 ▶ amends provisions regarding the Senate confirmation process;
- 33 ▶ creates the Appellate Court Nominating Commission;
- 34 ▶ provides the purpose and membership of the Appellate Court Nominating
- 35 Commission;
- 36 ▶ addresses the appointment, vacancy, or removal of commissioners on the Appellate
- 37 Court Nominating Commission;
- 38 ▶ addresses procedures and expenses for the Appellate Court Nominating
- 39 Commission;
- 40 ▶ creates a district and juvenile court nominating commission for each geographical
- 41 division of the district and juvenile courts;
- 42 ▶ provides the purpose and membership of a district and juvenile court nominating
- 43 commission;
- 44 ▶ addresses the appointment, vacancy, or removal of commissioners on a district and
- 45 juvenile court nominating commission;
- 46 ▶ addresses procedures and expenses for a district and juvenile court nominating
- 47 commission; and
- 48 ▶ makes technical and conforming changes.

49 **Money Appropriated in this Bill:**

50 None

51 **Other Special Clauses:**

52 None

53 **Utah Code Sections Affected:**

54 AMENDS:

55 **20A-12-201**, as last amended by Laws of Utah 2022, Chapter 202

56 **30-3-38**, as last amended by Laws of Utah 2022, Chapter 335

57 **31A-5-414**, as enacted by Laws of Utah 1985, Chapter 242

58 **31A-5-415**, as last amended by Laws of Utah 2000, Chapter 300

59 **31A-16-111**, as last amended by Laws of Utah 2000, Chapter 114
60 **53B-1-501**, as enacted by Laws of Utah 2020, Chapter 365 and last amended by
61 Coordination Clause, Laws of Utah 2020, Chapter 365
62 **57-11-15**, as last amended by Laws of Utah 1987, Chapter 161
63 **59-1-602**, as last amended by Laws of Utah 2008, Chapter 382
64 **59-1-707**, as renumbered and amended by Laws of Utah 1987, Chapter 3
65 **63I-2-278**, as last amended by Laws of Utah 2022, Chapter 470
66 **67-1-1.5**, as last amended by Laws of Utah 2021, Chapter 394
67 **67-1-2**, as last amended by Laws of Utah 2020, Chapters 352, 373 and last amended by
68 Coordination Clause, Laws of Utah 2020, Chapters 352, 365 and 373
69 **78A-1-103**, as last amended by Laws of Utah 2022, Chapter 271
70 **78A-1-104**, as last amended by Laws of Utah 2022, Chapter 271
71 **78A-2-802**, as last amended by Laws of Utah 2022, Chapter 334
72 **78A-10-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3
73 **78A-10-104**, as last amended by Laws of Utah 2010, Chapter 134 and last amended by
74 Coordination Clause, Laws of Utah 2010, Chapter 134

75 ENACTS:

76 **78A-10a-101**, Utah Code Annotated 1953
77 **78A-10a-102**, Utah Code Annotated 1953
78 **78A-10a-103**, Utah Code Annotated 1953
79 **78A-10a-201**, Utah Code Annotated 1953
80 **78A-10a-202**, Utah Code Annotated 1953
81 **78A-10a-203**, Utah Code Annotated 1953
82 **78A-10a-204**, Utah Code Annotated 1953
83 **78A-10a-301**, Utah Code Annotated 1953
84 **78A-10a-302**, Utah Code Annotated 1953
85 **78A-10a-303**, Utah Code Annotated 1953
86 **78A-10a-304**, Utah Code Annotated 1953
87 **78A-10a-305**, Utah Code Annotated 1953
88 **78A-10a-401**, Utah Code Annotated 1953
89 **78A-10a-402**, Utah Code Annotated 1953

90 **78A-10a-403**, Utah Code Annotated 1953

91 **78A-10a-404**, Utah Code Annotated 1953

92 **78A-10a-405**, Utah Code Annotated 1953

93 REPEALS AND REENACTS:

94 **78A-1-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

97 Section 1. Section **20A-12-201** is amended to read:

98 **20A-12-201. Judicial appointees -- Retention elections.**

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

101 (b) After the first retention election:

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

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

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

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

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

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

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

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

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

120 (iii) If a justice court judge is appointed or elected to more than one judicial office,

121 filing a declaration of candidacy in one county in which one of those courts is located is valid
122 for the courts in any other county.

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

125 (i) transmit a certified list containing the names of the justices of the Supreme Court
126 and judges of the Court of Appeals declaring their candidacy to the county clerk of each
127 county; and

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

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

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

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

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

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

140 "Shall _____ (name of justice or judge) be retained in the
141 office of _____? (name of office, such as "Justice of the Supreme
142 Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the
143 Third Judicial District"; "Judge of the Juvenile Court of the [~~Fourth Juvenile Court~~] First
144 Judicial District"; "Justice Court Judge of (name of county) County or (name of municipality)")

145 Yes ()

146 No ()."

147 (b) If a justice court exists by means of an interlocal agreement under Section
148 78A-7-102, the ballot question for the judge shall include the name of that court.

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

151 (b) If the justice or judge does not receive more yes votes than no votes, the justice or

152 judge is not retained, and a vacancy exists in the office on the first Monday in January after the
153 regular general election.

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

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

161 (b) If a justice court judge is standing for retention for one or more judicial offices in a
162 municipality of the first, second, or third class, as described in Section 10-2-301, the election
163 officer shall place the judge's name only on the municipal ballot for the voters of the
164 municipality that the judge serves.

165 Section 2. Section 30-3-38 is amended to read:

166 **30-3-38. Expedited Parent-time Enforcement Program.**

167 (1) There is established an Expedited Parent-time Enforcement Program in the [~~third~~
168 ~~judicial district~~] First Judicial District to be administered by the Administrative Office of the
169 Courts.

170 (2) As used in this section:

171 (a) "Mediator" means a person who:

172 (i) is qualified to mediate parent-time disputes under criteria established by the
173 Administrative Office of the Courts; and

174 (ii) agrees to follow billing guidelines established by the Administrative Office of the
175 Courts and this section.

176 (b) "Services to facilitate parent-time" or "services" means services designed to assist
177 families in resolving parent-time problems through:

178 (i) counseling;

179 (ii) supervised parent-time;

180 (iii) neutral drop-off and pick-up;

181 (iv) educational classes; and

182 (v) other related activities.

183 (3) (a) If a parent files a motion in the third district court alleging that court-ordered
184 parent-time rights are being violated, the clerk of the court, after assigning the case to a judge,
185 shall refer the case to the administrator of this program for assignment to a mediator, unless a
186 parent is incarcerated or otherwise unavailable. Unless the court rules otherwise, a parent
187 residing outside of the state is not unavailable. The director of the program for the courts, the
188 court, or the mediator may excuse either party from the requirement to mediate for good cause.

189 (b) Upon receipt of a case, the mediator shall:

190 (i) meet with the parents to address parent-time issues within 15 days of the motion
191 being filed;

192 (ii) assess the situation;

193 (iii) facilitate an agreement on parent-time between the parents; and

194 (iv) determine whether a referral to a service provider under Subsection (3)(c) is
195 warranted.

196 (c) While a case is in mediation, a mediator may refer the parents to a service provider
197 designated by the Department of Health and Human Services for services to facilitate
198 parent-time if:

199 (i) the services may be of significant benefit to the parents; or

200 (ii) (A) a mediated agreement between the parents is unlikely; and

201 (B) the services may facilitate an agreement.

202 (d) At any time during mediation, a mediator shall terminate mediation and transfer the
203 case to the administrator of the program for referral to the judge or court commissioner to
204 whom the case was assigned under Subsection (3)(a) if:

205 (i) a written agreement between the parents is reached; or

206 (ii) the parents are unable to reach an agreement through mediation and:

207 (A) the parents have received services to facilitate parent-time;

208 (B) both parents object to receiving services to facilitate parent-time; or

209 (C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

210 (e) Upon receiving a case from the administrator of the program, a judge or court
211 commissioner may:

212 (i) review the agreement of the parents and, if acceptable, sign it as an order;

213 (ii) order the parents to receive services to facilitate parent-time;

214 (iii) proceed with the case; or
215 (iv) take other appropriate action.

216 (4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a
217 child who is the subject of a parent-time order against the other parent or a member of the other
218 parent's household to a mediator or service provider, the mediator or service provider shall
219 immediately report that information to:

220 (i) the judge assigned to the case who may immediately issue orders and take other
221 appropriate action to resolve the allegation and protect the child; and

222 (ii) the Division of Child and Family Services within the Department of Health and
223 Human Services in the manner required by Title 80, Chapter 2, Part 6, Child Abuse and
224 Neglect Reports.

225 (b) If an allegation under Subsection (4)(a) is made against a parent with parent-time
226 rights or a member of that parent's household, parent-time by that parent shall, pursuant to an
227 order of the court, be supervised until:

228 (i) the allegation has been resolved; or
229 (ii) a court orders otherwise.

230 (c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to
231 mediate parent-time problems and a service provider may continue to provide services to
232 facilitate parent-time unless otherwise ordered by a court.

233 (5) (a) The Department of Health and Human Services may contract with one or more
234 entities in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide:

235 (i) services to facilitate parent-time;
236 (ii) case management services; and
237 (iii) administrative services.

238 (b) An entity who contracts with the Department of Health and Human Services under
239 Subsection (5)(a) shall:

240 (i) be qualified to provide one or more of the services listed in Subsection (5)(a); and
241 (ii) agree to follow billing guidelines established by the Department of Health and
242 Human Services and this section.

243 (6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

244 (i) reduced to a sum certain;

245 (ii) divided equally between the parents; and
246 (iii) charged against each parent taking into account the ability of that parent to pay
247 under billing guidelines adopted in accordance with this section.

248 (b) A judge may order a parent to pay an amount in excess of that provided for in
249 Subsection (6)(a) if the parent:

250 (i) failed to participate in good faith in mediation or services to facilitate parent-time;

251 or

252 (ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

253 (c) (i) The cost of mediation and services to facilitate parent-time may be charged to
254 parents at periodic intervals.

255 (ii) Mediation and services to facilitate parent-time may only be terminated on the
256 ground of nonpayment if both parents are delinquent.

257 (7) (a) The Judicial Council may make rules to implement and administer the
258 provisions of this program related to mediation.

259 (b) The Department of Health and Human Services may make rules to implement and
260 administer the provisions of this program related to services to facilitate parent-time.

261 (8) (a) The Administrative Office of the Courts shall adopt outcome measures to
262 evaluate the effectiveness of the mediation component of this program. Progress reports shall
263 be provided to the Judiciary Interim Committee as requested by the committee.

264 (b) The Department of Health and Human Services shall adopt outcome measures to
265 evaluate the effectiveness of the services component of this program. Progress reports shall be
266 provided to the Judiciary Interim Committee as requested by the committee.

267 (c) The Administrative Office of the Courts and the Department of Human Services
268 may adopt joint outcome measures and file joint reports to satisfy the requirements of
269 Subsections (7)(a) and (b).

270 (9) The Department of Health and Human Services shall, by following the procedures
271 and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, apply for federal
272 funds as available.

273 Section 3. Section **31A-5-414** is amended to read:

274 **31A-5-414. Transactions in which directors and others are interested.**

275 (1) Any material transaction between an insurance corporation and one or more of its

276 directors or officers, or between an insurance corporation and any other person in which one or
277 more of its directors or officers or any person controlling the corporation has a material
278 interest, is voidable by the corporation unless all the following exist:

279 (a) At the time the transaction is entered into it is fair to the interests of the corporation.

280 (b) The transaction has, with full knowledge of its terms and of the interests involved,
281 been approved in advance by the board or by the shareholders.

282 (c) The transaction has been reported to the commissioner immediately after approval
283 by the board or the shareholders.

284 (2) A director, whose interest or status makes the transaction subject to this section,
285 may be counted in determining a quorum for a board meeting approving a transaction under
286 Subsection (1)(b), but may not vote. Approval requires the affirmative vote of a majority of
287 those present.

288 (3) The commissioner may by rule exempt certain types of transactions from the
289 reporting requirement of Subsection (1)(c). The commissioner has standing to bring an action
290 on behalf of an insurer to have a contract in violation of Subsection (1) declared void. Such an
291 action shall be brought in [~~the Third Judicial District Court for Salt Lake County~~] a district
292 court in Salt Lake County.

293 Section 4. Section **31A-5-415** is amended to read:

294 **31A-5-415. Officers', directors', and employees' liability and indemnification.**

295 (1) Section **16-10a-841** applies to the liabilities of directors of a stock corporation.
296 Subsection **16-6a-825(3)** applies to loans to trustees and officers of a mutual. A director who
297 votes for or assents to a violation of Subsection **16-6a-825(3)** or Section **16-10a-842** is jointly
298 and severally liable to the corporation for any loss on the distribution.

299 (2) Title 16, Chapter 10a, Part 9, Indemnification, applies to stock and mutual
300 corporations, but no indemnification may be paid until 30 or more days after sending a notice
301 to the commissioner of the full details of the proposed indemnification. The commissioner
302 may bring an action in [~~Third Judicial District Court for Salt Lake County~~] a district court in
303 Salt Lake County to have such indemnification enjoined. The court may enjoin the
304 indemnification to the extent it would render the insurer in a hazardous condition, or
305 exacerbate an existing financially hazardous condition.

306 Section 5. Section **31A-16-111** is amended to read:

307 **31A-16-111. Required sale of improperly acquired stock -- Penalties.**

308 (1) If the commissioner finds that the acquiring person has not substantially complied
309 with the requirements of this chapter in acquiring control of a domestic insurer, the
310 commissioner may require the acquiring person to sell the acquiring person's stock of the
311 domestic insurer in the manner specified in Subsection (2).

312 (2) (a) The commissioner shall effect the sale required by Subsection (1) in the manner
313 which, under the particular circumstances, appears most likely to result in the payment of the
314 full market value for the stock by persons who have the collective competence, experience,
315 financial resources, and integrity to obtain approval under Subsection 31A-16-103(8).

316 (b) Sales made under this section are subject to approval by [~~the Third Judicial District~~
317 ~~Court for Salt Lake County~~] a district court in Salt Lake County, which court has the authority
318 to effect the terms of the sale.

319 (3) The proceeds from sales made under this section shall be distributed first to the
320 person required by this section to sell the stock, but only up to the amount originally paid by
321 the person for the securities. Additional sale proceeds shall be paid to the General Fund.

322 (4) The person required to sell and persons related to or affiliated with the seller may
323 not purchase the stock at the sale conducted under this section.

324 (5) (a) A director or officer of an insurance holding company system violates this
325 chapter if the director or officer knowingly:

326 (i) participates in or assents to a transaction or investment that:

327 (A) has not been properly reported or submitted pursuant to:

328 (I) Subsections 31A-16-105(1) and (2); or

329 (II) Subsection 31A-16-106(1)(b); or

330 (B) otherwise violates this chapter; or

331 (ii) permits any of the officers or agents of the insurer to engage in a transaction or
332 investment described in Subsection (5)(a)(i).

333 (b) A director or officer in violation of Subsection (5)(a) shall pay, in the director's or
334 officer's individual capacity, a civil penalty of not more than \$20,000 per violation:

335 (i) upon a finding by the commissioner of a violation; and

336 (ii) after notice and hearing before the commissioner.

337 (c) In determining the amount of the civil penalty under Subsection (5)(b), the

338 commissioner shall take into account:

339 (i) the appropriateness of the penalty with respect to the gravity of the violation;

340 (ii) the history of previous violations; and

341 (iii) any other matters that justice requires.

342 (6) (a) When it appears to the commissioner that any insurer or any director, officer,
343 employee, or agent of the insurer, has committed a willful violation of this chapter, the
344 commissioner may cause criminal proceedings to be instituted:

345 (i) (A) in the district court for the county in this state in which the principal office of
346 the insurer is located; or

347 (B) if the insurer has no principal office in this state, in [~~the Third District Court for~~
348 ~~Salt Lake County~~] a district court in Salt Lake County; and

349 (ii) against the insurer or the responsible director, officer, employee, or agent of the
350 insurer.

351 (b) (i) An insurer that willfully violates this chapter may be fined not more than
352 \$20,000.

353 (ii) Any individual who willfully violates this chapter is guilty of a third degree felony,
354 and upon conviction may be:

355 (A) fined in that person's individual capacity not more than \$5,000;

356 (B) imprisoned; or

357 (C) both fined and imprisoned.

358 (7) This section does not limit the other sanctions applicable to violations of this title
359 under Section [31A-2-308](#).

360 Section 6. Section **53B-1-501** is amended to read:

361 **53B-1-501. Establishment of initial board membership.**

362 (1) (a) The governor shall appoint, with the advice and consent of the Senate,
363 individuals to the board, to ensure that beginning July 1, 2020, the board consists of 18
364 members, including:

365 (i) at least six individuals who were members of the State Board of Regents on May
366 12, 2020;

367 (ii) at least six individuals who were members of the Utah System of Technical
368 Colleges Board of Trustees on May 12, 2020; and

369 (iii) two student members appointed to the board in accordance with Section
370 [53B-1-404](#).

371 (b) Before making an appointment described in Subsection (1)(a), the governor shall
372 consult:

373 (i) for an appointment described in Subsection (1)(a)(i), with State Board of Regents
374 leadership; and

375 (ii) for an appointment described in Subsection (1)(a)(ii), with Utah System of
376 Technical Colleges Board of Trustees leadership.

377 (2) (a) Except for an appointment described in Subsection (1)(a)(iii), the governor shall
378 appoint an individual to a two-year, four-year, or six-year term to ensure that one-third of the
379 members complete the members' terms on June 30 of each even number year.

380 (b) The governor may appoint an individual described in Subsection (1)(a) to a second
381 term without the individual being considered by the nominating committee described in
382 Section [53B-1-406](#) if, at the time of the individual's initial appointment to the board, the
383 individual:

384 (i) is serving the individual's first full term on the State Board of Regents or the Utah
385 System of Technical Colleges Board of Trustees; or

386 (ii) is not a member of the State Board of Regents or the Utah System of Technical
387 Colleges Board of Trustees.

388 (c) An appointment described in Subsection (2)(b) is for a six-year term.

389 (3) Following the appointments described in this section, a vacancy on the board shall
390 be filled in accordance with Section [53B-1-404](#).

391 (4) Notwithstanding Section [67-1-2](#), for an appointment described in this section:

392 (a) a majority of the president of the Senate, the Senate majority leader, and the Senate
393 minority leader may waive the 30-day requirement described in Subsection [[67-1-2\(1\)](#)]
394 [67-1-2\(2\)](#); and

395 (b) the Senate is not required to hold a confirmation hearing.

396 Section 7. Section **57-11-15** is amended to read:

397 **57-11-15. Judicial review.**

398 (1) Any person aggrieved by any order of the division may obtain judicial review.

399 (2) (a) Venue for judicial review of informal adjudicative proceedings is in the district

400 court where the aggrieved person maintains [~~his~~] the person's principal place of business, if
401 situated within this state, or otherwise in the [~~Third~~] First Judicial District.

402 (b) Judicial review of informal adjudicative proceedings shall be conducted by the
403 court without a jury.

404 Section 8. Section **59-1-602** is amended to read:

405 **59-1-602. Right to appeal -- Venue -- County as party in interest.**

406 (1) (a) Any aggrieved party appearing before the commission or county whose tax
407 revenues are affected by the decision may at that party's option petition for judicial review in
408 the district court pursuant to this section, or in the Supreme Court or the Court of Appeals
409 pursuant to Section **59-1-610**.

410 (b) Judicial review of formal or informal adjudicative proceedings in the district is in
411 the district court located in the county of residence or principal place of business of the affected
412 taxpayer or, in the case of a taxpayer whose taxes are assessed on a statewide basis, to [~~the~~
413 ~~Third Judicial District Court in and for Salt Lake County~~] a district court in Salt Lake County.

414 (c) Notwithstanding Section **63G-4-402**, a petition for review made to the district court
415 under this section shall conform to the Utah Rules of Appellate Procedure.

416 (2) A county whose tax revenues are affected by the decision being reviewed shall be
417 allowed to be a party in interest in the proceeding before the court.

418 Section 9. Section **59-1-707** is amended to read:

419 **59-1-707. Writ of mandate requiring taxpayer to file return.**

420 (1) (a) If a taxpayer fails to file any return required pursuant to Title 59, Revenue and
421 Taxation, within 60 days of the time prescribed, the commission may petition for a writ of
422 mandate to compel the taxpayer to file the return. The petition may be filed, in the discretion
423 of the commission, [~~in the Tax Division of the Third Judicial District or in the district court~~
424 ~~for~~] in a district court in the First Judicial District or in the county in which the taxpayer resides
425 or has [~~his~~] the taxpayer's principal place of business. In the case of a nonresident taxpayer, the
426 petition shall be filed in [~~the Third District Court~~] a district court in the First Judicial District.

427 (b) The court shall grant a hearing on the petition for a writ of mandate within 20 days
428 after the filing of the petition or as soon thereafter as the court may determine, having regard
429 for the rights of the parties and the necessity of a speedy determination of the petition.

430 (c) Upon a finding of failure to file a return within 60 days of the time prescribed

431 pursuant to Title 59, Revenue and Taxation, the court shall issue a writ of mandate requiring
432 the taxpayer to file a return. The order of the court shall include an award of attorneys' fees,
433 court costs, witness fees, and all other costs in favor of the prevailing party.

434 (2) Nothing in this section shall limit the remedies otherwise available to the
435 commission under Title 59, Revenue and Taxation, or other laws of this state.

436 Section 10. Section **63I-2-278** is amended to read:

437 **63I-2-278. Repeal dates: Title 78A and Title 78B.**

438 (1) Title 78A, Chapter 10, Judicial Selection Act, is repealed on July 1, 2023.

439 (2) If Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered
440 Devices, is not in effect before January 1, 2031, Title 78B, Chapter 6, Part 22, Cause of Action
441 to Protect Minors from Unfiltered Devices, is repealed January 1, 2031.

442 [~~2~~] (3) Sections **78B-12-301** and **78B-12-302** are repealed on January 1, 2025.

443 Section 11. Section **67-1-1.5** is amended to read:

444 **67-1-1.5. Gubernatorial appointment powers.**

445 (1) As used in this section:

446 (a) "Board member" means each gubernatorial appointee to any state board, committee,
447 commission, council, or authority.

448 (b) "Executive branch management position" includes department executive directors,
449 division directors, and any other administrative position in state government where the person
450 filling the position:

451 (i) works full-time performing managerial and administrative functions;

452 (ii) is appointed by the governor with the advice and consent of the Senate.

453 (c) (i) "Executive branch policy position" means any person other than a person filling
454 an executive branch management position, who is appointed by the governor with the advice
455 and consent of the Senate.

456 (ii) "Executive branch policy position" includes each member of any state board and
457 commission appointed by the governor with the advice and consent of the Senate.

458 (2) (a) Whenever a vacancy occurs in any executive branch policy position or in any
459 executive branch management position, the governor shall submit the name of a nominee to the
460 Senate for advice and consent no later than three months after the day on which the vacancy
461 occurs.

462 (b) If the Senate fails to consent to that person within 90 days after the day on which
463 the governor submits the nominee's name to the Senate for consent:

464 (i) the nomination is considered rejected; and

465 (ii) the governor shall resubmit the name of the nominee described in Subsection (2)(a)
466 or submit the name of a different nominee to the Senate for consent no later than 60 days after
467 the date on which the nomination was rejected by the Senate.

468 (3) Whenever a vacancy occurs in any executive branch management position, the
469 governor may either:

470 (a) appoint an interim manager who meets the qualifications of the vacant position to
471 exercise the powers and duties of the vacant position for three months, pending consent of a
472 person to permanently fill that position by the Senate; or

473 (b) appoint an interim manager who does not meet the qualifications of the vacant
474 position and submit that person's name to the Senate for consent as interim manager within one
475 month of the appointment.

476 (4) Except for an interim manager appointed to a position described in Subsection
477 [~~67-1-2(3)(b)(i) through (vii)~~] 67-1-2(2)(a), if the Senate fails to consent to the interim manager
478 appointed under Subsection (3)(b) within 30 days after the day on which the governor submits
479 the nominee's name to the Senate for consent:

480 (a) the nomination is considered rejected; and

481 (b) the governor may:

482 (i) (A) reappoint the interim manager to whom the Senate failed to consent within 30
483 days; and

484 (B) resubmit the name of the person described in Subsection (4)(b)(i)(A) to the Senate
485 for consent as interim manager; or

486 (ii) appoint a different interim manager under Subsection (3).

487 (5) For an interim manager appointed to a position described in Subsection
488 [~~67-1-2(3)(b)(i) through (vii)~~] 67-1-2(2)(a), if the Senate fails to consent to the interim manager
489 appointed under Subsection (3)(b) within 60 days after the day on which the governor submits
490 the nominee's name to the Senate for consent:

491 (a) the nomination is considered rejected; and

492 (b) the governor may:

493 (i) (A) reappoint the interim manager to whom the Senate failed to consent; and
494 (B) resubmit the name of the person described in Subsection (5)(b)(i)(A) to the Senate
495 for consent as interim manager; or

496 (ii) appoint a different interim manager under Subsection (3).

497 (6) If, after an interim manager has served three months, no one has been appointed
498 and received Senate consent to permanently fill the position, the governor shall:

499 (a) appoint a new interim manager who meets the qualifications of the vacant position
500 to exercise the powers and duties of the vacant position for three months; or

501 (b) submit the name of the first interim manager to the Senate for consent as an interim
502 manager for a three-month term.

503 (7) If the Senate fails to consent to a nominee whose name is submitted under
504 Subsection (6)(b) within 30 days after the day on which the governor submits the name to the
505 Senate:

506 (a) the nomination is considered rejected; and

507 (b) the governor shall:

508 (i) (A) reappoint the person described in Subsection (6)(b); and

509 (B) resubmit the name of the person described in Subsection (6)(b) to the Senate for
510 consent as interim manager; or

511 (ii) appoint a different interim manager in the manner required by Subsection (3).

512 (8) The governor may not make a temporary appointment to fill a vacant executive
513 branch policy position.

514 (9) (a) Before appointing any person to serve as a board member, the governor shall
515 ask the person whether the person wishes to receive per diem, expenses, or both for serving as
516 a board member.

517 (b) If the person declines to receive per diem, expenses, or both, the governor shall
518 notify the agency administering the board, commission, committee, council, or authority and
519 direct the agency to implement the board member's request.

520 (10) A gubernatorial nomination upon which the Senate has not acted to give consent
521 or refuse to give consent is void when a vacancy in the office of governor occurs.

522 Section 12. Section **67-1-2** is amended to read:

523 **67-1-2. Senate confirmation of gubernatorial nominees -- Verification of**

524 **nomination requirements -- Consultation on appointments -- Notification of anticipated**
525 **vacancies.**

526 ~~[(1) Until October 1, 2020, unless waived by a majority of the president of the Senate,~~
527 ~~the Senate majority leader, and the Senate minority leader, 15 days before any Senate session to~~
528 ~~confirm any gubernatorial nominee, except a judicial appointment, the governor shall send to~~
529 ~~each member of the Senate and to the Office of Legislative Research and General Counsel:]~~

530 ~~[(a) a list of each nominee for an office or position made by the governor in accordance~~
531 ~~with the Utah Constitution and state law; and]~~

532 ~~[(b) any information that may support or provide biographical information about the~~
533 ~~nominee, including resumes and curriculum vitae.]~~

534 ~~[(2)]~~ (1) (a) Except as provided in Subsection (3), ~~[beginning October 1, 2020,]~~ at least
535 30 days before the day of an extraordinary session of the Senate to confirm a gubernatorial
536 nominee, the governor shall send to each member of the Senate and to the Office of Legislative
537 Research and General Counsel the following information for each nominee:

538 ~~[(a)]~~ (i) the nominee's name and biographical information, including a resume and
539 curriculum vitae with personal contact information, including home address, email address, and
540 telephone number, redacted, except that the governor shall send to the Office of Legislative
541 Research and General Counsel the contact information for the nominee;

542 ~~[(b)]~~ (ii) a detailed list, with citations, of the legal requirements for the appointed
543 position;

544 ~~[(c)]~~ (iii) a detailed list with supporting documents explaining how, and verifying that,
545 the nominee meets each statutory and constitutional requirement for the appointed position;

546 ~~[(d)]~~ (iv) a written certification by the governor that the nominee satisfies all
547 requirements for the appointment; and

548 ~~[(e)]~~ (v) public comment information collected in accordance with Section
549 [63G-24-204](#).

550 (b) This Subsection (1) does not apply to a judicial appointee.

551 ~~[(3) (a) Subsection (2) does not apply to a judicial nominee.]~~

552 ~~[(b) Beginning October 1, 2020, a]~~

553 (2) (a) A majority of the president of the Senate, the Senate majority leader, and the
554 Senate minority leader may waive the 30-day requirement described in Subsection [(2)] (1) for

555 a gubernatorial nominee other than a nominee for the following:

- 556 (i) the executive director of a department;
- 557 (ii) the executive director of the Governor's Office of Economic Opportunity;
- 558 (iii) the executive director of the Labor Commission;
- 559 (iv) a member of the State Tax Commission;
- 560 (v) a member of the State Board of Education;
- 561 (vi) a member of the Utah Board of Higher Education; or
- 562 (vii) an individual:
- 563 (A) whose appointment requires the advice and consent of the Senate; and
- 564 (B) whom the governor designates as a member of the governor's cabinet.

565 ~~[(4) Beginning October 1, 2020, the]~~

566 (b) The Senate shall hold a confirmation hearing for a nominee for an individual
 567 described in Subsection ~~[(3)(b)(i) through (vii)] (2)(a).~~

568 ~~[(5) Beginning on October 1, 2020, the]~~

569 (3) The governor shall:

570 (a) if the governor is aware of an upcoming vacancy in a position that requires Senate
 571 confirmation, provide notice of the upcoming vacancy to the president of the Senate, the Senate
 572 minority leader, and the Office of Legislative Research and General Counsel at least 30 days
 573 before the day on which the vacancy occurs; and

574 (b) establish a process for government entities and other relevant organizations to
 575 provide input on gubernatorial appointments.

576 ~~[(6)]~~ (4) When the governor makes a judicial appointment, the governor shall
 577 immediately provide to the president of the Senate and the Office of Legislative Research and
 578 General Counsel:

579 (a) the name of the judicial appointee; and

580 (b) the judicial appointee's:

581 (i) resume;

582 (ii) complete file of all the application materials the governor received from the

583 ~~[Judicial Nominating Commission]~~ judicial nominating commission; and

584 (iii) any other related documents, including any letters received by the governor about
 585 the appointee, unless the letter specifically directs that ~~[it]~~ the letter may not be shared.

586 ~~[(7)]~~ (5) The governor shall inform the president of the Senate and the Office of
587 Legislative Research and General Counsel of the number of letters withheld pursuant to
588 Subsection ~~[(6)(b)(iii)]~~ (4)(b)(iii).

589 ~~[(8)]~~ (6) (a) Letters of inquiry submitted by any judge at the request of any judicial
590 nominating commission ~~[shall be]~~ are classified as private in accordance with Section
591 [63G-2-302](#).

592 (b) All other records received from the governor pursuant to this Subsection ~~[(8)]~~ (6)
593 may be classified as private in accordance with Section [63G-2-302](#).

594 ~~[(9)]~~ (7) The Senate shall consent or refuse to give ~~[its]~~ the Senate's consent to ~~[the]~~ a
595 nomination or judicial appointment.

596 ~~[(10)]~~ ~~A judicial nominating commission shall, at the time the judicial nominating~~
597 ~~commission certifies a list of the most qualified judicial applicants to the governor under~~
598 ~~Section [78A-10-104](#), submit the same list to the president of the Senate, the Senate minority~~
599 ~~leader, and the Office of Legislative Research and General Counsel.]~~

600 Section 13. Section [78A-1-102](#) is repealed and reenacted to read:

601 **[78A-1-102. Trial courts of record -- Geographical divisions.](#)**

602 (1) Before July 1, 2023, the district and juvenile courts are divided into the following
603 eight geographical divisions:

604 (a) First Judicial District, which includes Box Elder County, Cache County, and Rich
605 County;

606 (b) Second Judicial District, which includes Weber County, Davis County, and Morgan
607 County;

608 (c) Third Judicial District, which includes Salt Lake County, Summit County, and
609 Tooele County;

610 (d) Fourth Judicial District, which includes Utah County, Wasatch County, Juab
611 County, and Millard County;

612 (e) Fifth Judicial District, which includes Beaver County, Iron County, and
613 Washington County;

614 (f) Sixth Judicial District, which includes Garfield County, Kane County, Piute
615 County, Sanpete County, Sevier County, and Wayne County;

616 (g) Seventh Judicial District, which includes Carbon County, Emery County, Grand

617 County, and San Juan County; and

618 (h) Eighth Judicial District, which includes Daggett County, Duchesne County, and
619 Uintah County.

620 (2) On and after July 1, 2023, the district and juvenile courts are divided into the
621 following three geographical districts:

622 (a) First Judicial District, which includes Box Elder County, Cache County, Rich
623 County, Weber County, Davis County, Morgan County, Salt Lake County, Summit County,
624 Tooele County, Utah County, Wasatch County, Juab County, and Millard County;

625 (b) Second Judicial District, which includes Beaver County, Iron County, Washington
626 County, Garfield County, Kane County, Piute County, Sanpete County, Sevier County, and
627 Wayne County; and

628 (c) Third Judicial District, which includes Carbon County, Emery County, Grand
629 County, San Juan County, Daggett County, Duchesne County, and Uintah County.

630 (3) (a) The First Judicial District, the Second Judicial District, the Third Judicial
631 District, and the Fourth Judicial District as they existed on June 30, 2023, are consolidated and
632 known as the First Judicial District on and after July 1, 2023.

633 (b) The Fifth Judicial District and the Sixth Judicial District as they existed on June 30,
634 2023, are consolidated and known as the Second Judicial District on and after July 1, 2023.

635 (c) The Seventh Judicial District and the Eighth Judicial District as they existed on
636 June 30, 2023, are consolidated and known as the Third Judicial District on and after July 1,
637 2023.

638 (4) A judge serving in a geographical district described in Subsection (1) on June 30,
639 2023, is not removed from office due to the changes in geographical divisions under
640 Subsections (2) and (3) on July 1, 2023.

641 Section 14. Section **78A-1-103** is amended to read:

642 **78A-1-103. Number of district court judges.**

643 (1) ~~[The]~~ Before July 1, 2023, the number of district court judges ~~[shall be]~~ is:

644 ~~[(1)]~~ (a) four ~~[district]~~ judges in the First Judicial District;

645 ~~[(2)]~~ (b) 14 ~~[district]~~ judges in the Second Judicial District;

646 ~~[(3)]~~ (c) 31 ~~[district]~~ judges in the Third Judicial District;

647 ~~[(4)]~~ (d) 13 ~~[district]~~ judges in the Fourth Judicial District;

648 ~~[(5)]~~ (e) seven ~~[district]~~ judges in the Fifth Judicial District;
 649 ~~[(6)]~~ (f) two ~~[district]~~ judges in the Sixth Judicial District;
 650 ~~[(7)]~~ (g) three ~~[district]~~ judges in the Seventh Judicial District; and
 651 ~~[(8)]~~ (h) three ~~[district]~~ judges in the Eighth Judicial District.

652 (2) On and after July 1, 2023, the number of district court judges is:
 653 (a) 62 judges in the First Judicial District;
 654 (b) nine judges in the Second Judicial District; and
 655 (c) six judges in the Third Judicial District.

656 Section 15. Section **78A-1-104** is amended to read:

657 **78A-1-104. Number of juvenile court judges.**

658 (1) [The] Before July 1, 2023, the number of juvenile court judges ~~[shall be]~~ is:
 659 ~~[(1)]~~ (a) two ~~[juvenile]~~ judges in the First ~~[Juvenile]~~ Judicial District;
 660 ~~[(2)]~~ (b) six ~~[juvenile]~~ judges in the Second ~~[Juvenile]~~ Judicial District;
 661 ~~[(3)]~~ (c) nine ~~[juvenile]~~ judges in the Third ~~[Juvenile]~~ Judicial District;
 662 ~~[(4)]~~ (d) five ~~[juvenile]~~ judges in the Fourth ~~[Juvenile]~~ Judicial District;
 663 ~~[(5)]~~ (e) three ~~[juvenile]~~ judges in the Fifth ~~[Juvenile]~~ Judicial District;
 664 ~~[(6)]~~ (f) two ~~[juvenile]~~ judges in the Sixth ~~[Juvenile]~~ Judicial District;
 665 ~~[(7)]~~ (g) two ~~[juvenile]~~ judges in the Seventh ~~[Juvenile]~~ Judicial District; and
 666 ~~[(8)]~~ (h) two ~~[juvenile]~~ judges in the Eighth ~~[Juvenile]~~ Judicial District.

667 (2) On and after July 1, 2023, the number of juvenile court judges is:
 668 (a) 22 judges in the First Judicial District;
 669 (b) five judges in the Second Judicial District; and
 670 (c) four judges in the Third Judicial District.

671 Section 16. Section **78A-2-802** is amended to read:

672 **78A-2-802. Office of Guardian Ad Litem -- Appointment of director -- Duties of**
 673 **director -- Contracts in second, third, and fourth districts.**

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

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

678 (b) The guardian ad litem director shall:

- 679 (i) serve at the pleasure of the Guardian Ad Litem Oversight Committee, in
680 consultation with the state court administrator;
- 681 (ii) be an attorney licensed to practice law in this state and selected on the basis of:
682 (A) professional ability;
683 (B) experience in abuse, neglect, and dependency proceedings;
684 (C) familiarity with the role, purpose, and function of guardians ad litem in both
685 juvenile and district courts; and
686 (D) ability to develop training curricula and reliable methods for data collection and
687 evaluation; and
- 688 (iii) before or immediately after the director's appointment, be trained in nationally
689 recognized standards for an attorney guardian ad litem.
- 690 (3) The guardian ad litem director shall:
- 691 (a) establish policy and procedure for the management of a statewide guardian ad litem
692 program;
- 693 (b) manage the guardian ad litem program to assure that a minor receives qualified
694 guardian ad litem services in an abuse, neglect, or dependency proceeding under Title 80,
695 Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with state and federal
696 law and policy;
- 697 (c) develop standards for contracts of employment and contracts with independent
698 contractors, and employ or contract with attorneys licensed to practice law in this state, to act
699 as attorney guardians ad litem in accordance with Section [78A-2-803](#);
- 700 (d) develop and provide training programs for volunteers in accordance with the United
701 States Department of Justice National Court Appointed Special Advocates Association
702 standards;
- 703 (e) develop and update a guardian ad litem manual that includes:
704 (i) best practices for an attorney guardian ad litem; and
705 (ii) statutory and case law relating to an attorney guardian ad litem;
- 706 (f) develop and provide a library of materials for the continuing education of attorney
707 guardians ad litem and volunteers;
- 708 (g) educate court personnel regarding the role and function of guardians ad litem;
- 709 (h) develop needs assessment strategies, perform needs assessment surveys, and ensure

710 that guardian ad litem training programs correspond with actual and perceived needs for
711 training;

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

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

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

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

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

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

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

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

728 Section 17. Section **78A-10-102** is amended to read:

729 **78A-10-102. Nomination, appointment, and confirmation of judges -- Judicial**
730 **nomination commissions.**

731 [~~Judges]~~ Before July 1, 2023, judges for courts of record in Utah [~~shall be~~] are
732 nominated, appointed, and confirmed [as provided in] in accordance with this chapter, Section
733 [67-1-2](#), and Utah Constitution Article VIII, Section 8[~~, and this chapter~~].

734 Section 18. Section **78A-10-104** is amended to read:

735 **78A-10-104. Convening of judicial nominating commissions -- Certification to**
736 **governor of nominees -- Meetings to investigate prospective candidates.**

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

739 (a) the recruitment period to fill a judicial vacancy begins 235 days before the effective
740 date of a vacancy, unless sufficient notice is not given, in which case the recruitment period

741 shall begin within 10 days of receiving notice;

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

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

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

748 (3) The nominating commission may:

749 (a) meet as necessary to perform its function; and

750 (b) investigate prospective candidates.

751 (4) Not later than 45 days after convening, the:

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

754 (b) trial court nominating commission shall certify to the governor a list of the five
755 most qualified applicants per vacancy.

756 (5) A commission shall, at the time that the commission certifies a list of the most
757 qualified applicants to the governor, submit the same list to the president of the Senate, the
758 Senate minority leader, and the Office of Legislative Research and General Counsel.

759 [~~(5)~~] (6) The governor shall fill the vacancy within 30 days after receiving the list of
760 nominees.

761 [~~(6)~~] (7) If the governor fails to fill the vacancy within 30 days of receiving the list of
762 nominees from the nominating commission, the chief justice of the Supreme Court shall,
763 within 20 days, appoint a person from the list of nominees certified to the governor.

764 [~~(7)~~] (8) A nominating commission may not nominate a person who has served on a
765 nominating commission within six months of the date that the commission was last convened.

766 Section 19. Section **78A-10a-101** is enacted to read:

767 **CHAPTER 10a. JUDICIAL SELECTION**

768 **Part 1. General Provisions**

769 **78A-10a-101. Definitions.**

770 As used in this part:

771 (1) "Commission" means a judicial nominating commission created under Section

772 [78A-10a-302](#) or [78A-10a-402](#).

773 (2) "Commissioner" means an individual appointed by the governor to serve on a
774 judicial nominating commission created under Section [78A-10a-302](#) or [78A-10a-402](#).

775 Section 20. Section **78A-10a-102** is enacted to read:

776 **78A-10a-102. Nomination, appointment, and confirmation of judges.**

777 (1) On and after July 1, 2023, judges for courts of record in this state are nominated,
778 appointed, and confirmed in accordance with this chapter, Section [67-1-2](#), and Utah
779 Constitution, Article VIII, Section 8.

780 (2) A commission, the governor, the chief justice of the Supreme Court, and the Senate
781 shall nominate and select judges based solely upon consideration of fitness for office without
782 regard to any partisan political consideration.

783 Section 21. Section **78A-10a-103** is enacted to read:

784 **78A-10a-103. Judicial nominating commissions -- Transition clause.**

785 (1) Except as provided in Subsection (2), an individual appointed by the governor to
786 serve on a judicial nominating commission before July 1, 2023, is removed from the judicial
787 nominating commission on June 30, 2023.

788 (2) On or after May 3, 2023, but before July 1, 2023, the governor may appoint a
789 commissioner to serve on a commission in accordance with this chapter.

790 (3) A commissioner appointed by the governor under Subsection (2) may not begin the
791 commissioner's term of service until July 1, 2023.

792 Section 22. Section **78A-10a-201** is enacted to read:

793 **Part 2. Judicial Selection Process**

794 **78A-10a-201. State Commission on Criminal and Juvenile Justice -- Duties --**
795 **Rulemaking.**

796 The State Commission on Criminal and Juvenile Justice shall:

797 (1) enact rules establishing procedures for the meetings of a commission in accordance
798 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

799 (2) ensure that the rules described in Subsection (1):

800 (a) comply with the requirements of this chapter;

801 (b) include standards that:

802 (i) maintain the confidentiality of applications for a judicial vacancy and related

803 documents;
804 (ii) address destroying the records of the names of applicants, applications, and related
805 documents upon the completion of the judicial nomination process; and
806 (iii) govern a commissioner's disqualification and inability to serve;
807 (c) allow for public comment concerning the judicial nomination process,
808 qualifications for judicial office, and individual applicants;
809 (d) include evaluation criteria for the selection of judicial nominees; and
810 (e) address procedures for:
811 (i) taking summary minutes at a commission meeting;
812 (ii) simultaneously forwarding the names of nominees to the governor, the president of
813 the Senate, and the Office of Legislative Research and General Counsel as described in
814 Subsection [78A-10a-203\(5\)](#); and
815 (iii) requiring the Administrative Office of the Courts to immediately inform the
816 governor when a judge is removed, resigns, or retires.

817 Section 23. Section **78A-10a-202** is enacted to read:

818 **78A-10a-202. Time periods -- Recruitment period for judicial vacancy --**

819 **Convening a judicial nominating commission.**

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

822 (i) except as provided in Subsection (1)(a)(ii), the recruitment period to fill a judicial
823 vacancy begins 235 days before the effective date of the judicial vacancy;

824 (ii) if sufficient notice of a judicial vacancy is not given to the governor, the
825 recruitment period to fill a judicial vacancy begins within 10 days after the day on which the
826 governor receives notice;

827 (iii) except as provided in Subsection (1)(b), the recruitment period is a minimum of at
828 least 30 days but no more than 90 days; and

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

831 (b) If fewer than nine applications are received for a judicial vacancy, the governor
832 may extend the recruitment period described in Subsection (1)(b) up to 30 days.

833 (2) If there is a hiring freeze implemented in accordance with Section [78A-2-113](#), the

834 time periods described in Subsection (1) shall begin to run on the day that the hiring freeze
835 ends.

836 Section 24. Section **78A-10a-203** is enacted to read:

837 **78A-10a-203. Procedures for judicial nomination commission -- Meetings --**
838 **Certification -- Governor appointment.**

839 (1) (a) A commission may:

840 (i) meet as necessary to perform the commission's function; and

841 (ii) investigate the applicants of a judicial vacancy, including seeking input from
842 members and employees of the judiciary and the community.

843 (b) A commission may consult with the Judicial Council regarding the applicants for a
844 judicial vacancy.

845 (c) A commission is exempt from the requirements of Title 52, Chapter 4, Open and
846 Public Meetings Act.

847 (2) In determining which of the applicants are the most qualified, a commission shall
848 determine by a majority vote of the commissioners present which of the applicants best possess
849 the ability, temperament, training, and experience that qualifies an applicant for the office.

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

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

853 (ii) a district and juvenile court nominating commission shall certify to the governor a
854 list of the five most qualified applicants per judicial vacancy.

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

859 (4) A commission shall certify a list to the governor under Subsection (3) no more than
860 45 days after convening in accordance with Section [78A-10a-202](#).

861 (5) A commission shall, at the time that the commission certifies a list of the most
862 qualified applicants to the governor, submit the same list to the president of the Senate, the
863 Senate minority leader, and the Office of Legislative Research and General Counsel.

864 (6) A commission shall ensure that the lists of applicants certified to the governor:

865 (a) meet the qualifications required by law to fill the office; and

866 (b) are willing to serve.

867 (7) In determining which of the applicants are the most qualified, a commission may
868 not decline to certify an applicant's name to the governor because:

869 (a) the commission declined to submit that applicant's name to the governor to fill a
870 previous judicial vacancy;

871 (b) a previous commission declined to submit that applicant's name to the governor; or

872 (c) the commission or a previous commission submitted the applicant's name to the
873 governor and the governor selected another individual to fill the judicial vacancy.

874 (8) A commission may not certify:

875 (a) an applicant who is a justice or judge that was not retained by the voters for the
876 office for which the justice or judge was defeated until after the expiration of that justice's or
877 judge's term of office; and

878 (b) an applicant who has served on a commission within six months after the day on
879 which the commission was last convened.

880 (9) The governor shall fill a judicial vacancy within 30 days after the day on which the
881 governor received the list of nominees from the commission.

882 (10) If the governor fails to fill a judicial vacancy within 30 days after the day on which
883 the governor received the list of nominees from the commission, the chief justice of the
884 Supreme Court shall, within 20 days, appoint an applicant from the list of nominees certified to
885 the governor by the commission.

886 Section 25. Section **78A-10a-204** is enacted to read:

887 **78A-10a-204. Senate confirmation of judicial appointments -- Courts of record.**

888 (1) The Senate shall:

889 (a) consider and render a decision on each judicial appointment within 60 days after the
890 day of the judicial appointment; and

891 (b) if necessary, convene the Senate in an extraordinary session to consider the judicial
892 appointment.

893 (2) If the Senate fails to approve a judicial appointment, the office is considered vacant
894 and a new nominating process begins.

895 (3) A judicial appointment is effective upon approval of a majority of all members of

896 the Senate.

897 Section 26. Section **78A-10a-301** is enacted to read:

898 **Part 3. Appellate Court Nominating Commission**

899 **78A-10a-301. Definitions.**

900 As used in this part:

901 (1) "Commission" means the Appellate Court Nominating Commission created under
902 Section [78A-10a-302](#).

903 (2) "Commissioner" means an individual appointed by the governor to serve on the
904 Appellate Court Nominating Commission created under Section [78A-10a-302](#).

905 Section 27. Section **78A-10a-302** is enacted to read:

906 **78A-10a-302. Creation -- Purpose.**

907 (1) There is created the Appellate Court Nominating Commission.

908 (2) The Appellate Court Nominating Commission shall nominate individuals to fill
909 judicial vacancies on the Supreme Court and the Court of Appeals.

910 Section 28. Section **78A-10a-303** is enacted to read:

911 **78A-10a-303. Membership -- Vacancies -- Removal.**

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

914 (2) A commissioner shall:

915 (a) be a United States citizen;

916 (b) be a resident of Utah; and

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

918 (3) The governor may not appoint:

919 (a) a commissioner to serve successive terms; or

920 (b) a member of the Legislature to serve as a commissioner.

921 (4) The governor shall appoint the chair of the commission from among the
922 membership of the commission.

923 (5) The governor shall fill any vacancy on the commission caused by the expiration of
924 a commissioner's term.

925 (6) (a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the
926 governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

927 (b) A replacement commissioner appointed under Subsection (6)(a) may not be
928 reappointed upon expiration of the term of service.

929 (7) The governor may remove a commissioner from the commission at any time with
930 or without cause.

931 Section 29. Section **78A-10a-304** is enacted to read:

932 **78A-10a-304. Procedure -- Staff.**

933 (1) Four commissioners are a quorum.

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

936 (3) The governor shall:

937 (a) ensure that the commission follows the rules promulgated by the State Commission
938 on Criminal and Juvenile Justice under Section [78A-10a-201](#); and

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

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

942 Section 30. Section **78A-10a-305** is enacted to read:

943 **78A-10a-305. Expenses -- Per diem and travel.**

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

946 (1) Section [63A-3-106](#);

947 (2) Section [63A-3-107](#); and

948 (3) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
949 [63A-3-107](#).

950 Section 31. Section **78A-10a-401** is enacted to read:

951 **Part 4. District and Juvenile Court Nominating Commissions**

952 **78A-10a-401. Definitions.**

953 As used in this part:

954 (1) "Commission" means a district and juvenile court nominating commission created
955 under Section [78A-10a-402](#).

956 (2) "Commissioner" means an individual appointed by the governor to serve on a
957 district and juvenile court nominating commission created under Section [78A-10a-402](#).

958 Section 32. Section **78A-10a-402** is enacted to read:

959 **78A-10a-402. Creation -- Purpose.**

960 (1) There is a district and juvenile court nominating commission created for each
961 geographical division of the district and juvenile courts.

962 (2) A district and juvenile court nominating commission shall nominate individuals to
963 fill judicial vacancies for the district court and the juvenile court within the commission's
964 geographical division.

965 Section 33. Section **78A-10a-403** is enacted to read:

966 **78A-10a-403. Membership -- Vacancies -- Removal.**

967 (1) A district and juvenile court nominating commission shall consist of seven
968 commissioners, each appointed by the governor to serve a four-year term.

969 (2) A commissioner shall:

970 (a) be a United States citizen;

971 (b) be a resident of Utah; and

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

973 (3) The governor may not appoint:

974 (a) a commissioner to successive terms; and

975 (b) a member of the Legislature to serve as a commissioner.

976 (4) The governor shall appoint the chair of each commission from among the
977 membership of the commission.

978 (5) The governor shall fill any vacancy on the commission caused by the expiration of
979 a commissioner's term.

980 (6) (a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the
981 governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

982 (b) A replacement commissioner appointed under Subsection (6)(a) may not be
983 reappointed upon expiration of the term of service.

984 (7) The governor may remove a commissioner from the commission at any time with
985 or without cause.

986 Section 34. Section **78A-10a-404** is enacted to read:

987 **78A-10a-404. Procedure -- Staff.**

988 (1) Four commissioners are a quorum.

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

991 (3) The governor shall:

992 (a) ensure that each commission follows the rules promulgated by the State

993 Commission on Criminal and Juvenile Justice under Section [78A-10a-201](#); and

994 (b) resolve any questions regarding the rules.

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

997 Section 35. Section **78A-10a-405** is enacted to read:

998 **78A-10a-405. Expenses -- Per diem and travel.**

999 A commissioner may not receive compensation or benefits for the commissioner's
1000 service but may receive per diem and travel expenses in accordance with:

1001 (1) Section [63A-3-106](#);

1002 (2) Section [63A-3-107](#); and

1003 (3) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
1004 [63A-3-107](#).