

JUSTICE COURT AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the creation, procedures, and standards of Justice Courts.

Highlighted Provisions:

This bill:

- ▶ establishes and amends procedures to establish and expand the territorial jurisdiction of justice courts;
- ▶ amends and consolidates the minimum operating standards of justice courts;
- ▶ amends the Judicial Council's authority to establish rules and procedures concerning the creation and expansion of justice courts;
- ▶ provides for uniform fees of the justice courts;
- ▶ under certain circumstances, entitles a plea of "no contest" in a criminal justice court case to receive a trial de novo in the district court;
- ▶ authorizes cities and counties to alter the disposition of fines with interlocal agreements;
- ▶ requires every prospective justice court judge to attend an orientation program conducted under the direction of the Judicial Council before the justice court judge can be certified and qualified to hold office;
- ▶ authorizes the governing body of a justice court to create specialized judicial calendars and exempts judges who hear these calendars from being assigned cases at random;



- 28 ▶ modifies the procedures and penalties for failure to comply with continuing
- 29 education requirements;
- 30 ▶ modifies the procedures and penalties for failure to comply with compensation
- 31 limits, limits on secondary employment, and limits on holding elected or political
- 32 offices and requires the Judicial Council to file a formal complaint for violations;
- 33 ▶ amends the procedures to appoint a temporary justice court judge and prohibits a
- 34 retired justice court judge from serving as a temporary justice court judge;
- 35 ▶ modifies and establishes new standards for when and where a municipality and
- 36 county may hold justice court and authorizes the Judicial Council to determine
- 37 when and where justice courts may hold court; and
- 38 ▶ makes technical corrections.

39 **Money Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 None

43 **Utah Code Sections Affected:**

44 **AMENDS:**

- 45 **78A-7-101**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 46 **78A-7-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 47 **78A-7-105**, as last amended by Laws of Utah 2011, Chapter 208
- 48 **78A-7-106**, as last amended by Laws of Utah 2010, Chapters 34 and 47
- 49 **78A-7-118**, as last amended by Laws of Utah 2010, Chapter 215
- 50 **78A-7-120**, as last amended by Laws of Utah 2008, Chapter 22 and renumbered and
- 51 amended by Laws of Utah 2008, Chapter 3
- 52 **78A-7-121**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 53 **78A-7-201**, as last amended by Laws of Utah 2008, Chapter 93 and renumbered and
- 54 amended by Laws of Utah 2008, Chapter 3
- 55 **78A-7-202**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 3
- 56 **78A-7-203**, as last amended by Laws of Utah 2009, Chapter 146
- 57 **78A-7-204**, as last amended by Laws of Utah 2011, Chapter 208
- 58 **78A-7-205**, as renumbered and amended by Laws of Utah 2008, Chapter 3

59 **78A-7-206**, as last amended by Laws of Utah 2008, Chapter 93 and renumbered and
60 amended by Laws of Utah 2008, Chapter 3

61 **78A-7-208**, as renumbered and amended by Laws of Utah 2008, Chapter 3

62 **78A-7-210**, as renumbered and amended by Laws of Utah 2008, Chapter 3

63 **78A-7-213**, as last amended by Laws of Utah 2008, Chapter 93 and renumbered and
64 amended by Laws of Utah 2008, Chapter 3

65 **78A-7-215**, as renumbered and amended by Laws of Utah 2008, Chapter 3

66 **78A-8-101**, as enacted by Laws of Utah 2008, Chapter 3

67 ENACTS:

68 **78A-2-301.5**, Utah Code Annotated 1953

69 REPEALS AND REENACTS:

70 **78A-7-103**, as last amended by Laws of Utah 2011, Chapter 238

71 REPEALS:

72 **78A-7-104**, as renumbered and amended by Laws of Utah 2008, Chapter 3

73 **78A-7-108**, as renumbered and amended by Laws of Utah 2008, Chapter 3

74 **78A-7-109**, as renumbered and amended by Laws of Utah 2008, Chapter 3

75 **78A-7-110**, as renumbered and amended by Laws of Utah 2008, Chapter 3

76 **78A-7-111**, as renumbered and amended by Laws of Utah 2008, Chapter 3

77 **78A-7-112**, as renumbered and amended by Laws of Utah 2008, Chapter 3

78 **78A-7-113**, as renumbered and amended by Laws of Utah 2008, Chapter 3

79 **78A-7-114**, as renumbered and amended by Laws of Utah 2008, Chapter 3

80 **78A-7-115**, as renumbered and amended by Laws of Utah 2008, Chapter 3

81 **78A-7-116**, as renumbered and amended by Laws of Utah 2008, Chapter 3

82 **78A-7-117**, as renumbered and amended by Laws of Utah 2008, Chapter 3

83 **78A-7-119**, as renumbered and amended by Laws of Utah 2008, Chapter 3

84 **78A-7-209**, as renumbered and amended by Laws of Utah 2008, Chapter 3

85 **78A-7-211**, as renumbered and amended by Laws of Utah 2008, Chapter 3

86 **78A-7-214**, as renumbered and amended by Laws of Utah 2008, Chapter 3

87

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

89 Section 1. Section **78A-2-301.5** is enacted to read:

90 78A-2-301.5. Civil fees for justice courts.

91 (1) The fee for filing a small claims affidavit is:

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

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

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

98 (2) The fee for filing a small claims counter affidavit is:

99 (a) \$50 if the claim for relief exclusive of justice court costs, interest, and attorney fees
100 is \$2,000 or less;

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

103 (c) \$120 if the claim for relief exclusive of justice court costs, interest, and attorney
104 fees is \$7,500 or more.

105 (3) The fee for filing a petition for expungement is \$135.

106 (4) The fee for a petition to open a sealed record is \$35.

107 (5) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
108 addition to any fee for a complaint or petition.

109 (6) The fee for a certified copy of a document is \$4 per document plus 50 cents per
110 page.

111 (7) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
112 per page.

113 (8) The fee schedule adopted by the Judicial Council for copies of documents and
114 forms and for the search and retrieval of records under Title 63G, Chapter 2, Government
115 Records Access and Management Act, shall apply.

116 (9) There is no fee for services or the filing of documents not listed in this section or
117 otherwise provided by law.

118 (10) The filing fees under this section may not be charged to the state, its agencies, or
119 political subdivisions filing or defending any action.

120 Section 2. Section **78A-7-101** is amended to read:

121 **78A-7-101. Creation of justice court -- Not of record -- Classes of justice.**

122 (1) Under Article VIII, Section 1, Utah Constitution, there is created a court not of
 123 record known as the justice court. The judges of this court are justice court judges.

124 (2) Justice courts shall be divided into the following classes:

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

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

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

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

129 Section 3. Section **78A-7-102** is amended to read:

130 **78A-7-102. Establishment of justice courts.**

131 (1) (a) For the purposes of this section, to "create a justice court" means to:

132 (i) establish a justice court; or

133 (ii) establish a justice court under Title 11, Chapter 13, Interlocal Cooperation Act.

134 ~~[(b) A municipality or county that has created a justice court may change the form of~~
 135 ~~its court to another listed in Subsection (1)(a) without being considered to have created a~~
 136 ~~court.]~~

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

138 ~~[(a) Class I: 501 or more citations or cases filed per month;]~~

139 ~~[(b) Class II: 201-500 citations or cases filed per month;]~~

140 ~~[(c) Class III: 61-200 citations or cases filed per month; and]~~

141 ~~[(d) Class IV: 60 or fewer citations or cases filed per month.]~~

142 (b) For the purposes of this section, if more than one municipality or county is
 143 collectively proposing to create a justice court, the class of the justice court shall be determined
 144 by the total citations or cases filed within the territorial jurisdiction of the proposed justice
 145 court.

146 ~~[(3)]~~ (2) Municipalities or counties [can elect to create a Class I or Class II] of the first
 147 or second class may create a justice court by filing a written declaration with the Judicial
 148 Council on or before July 1 at least two years prior to the effective date of the election. Upon
 149 demonstration of compliance with operating standards as established by statute and the Judicial
 150 Council, the Judicial Council shall certify the creation of the court pursuant to Section
 151 78A-7-103.

152 ~~[(4)] (3) (a) [Except as provided in Subsection (5), municipalities or counties can elect~~
153 ~~to create a Class III or Class IV] Municipalities or counties of the third, fourth, or fifth class~~
154 ~~may create a justice court by [establishing] demonstrating the need for the court and filing a~~
155 ~~written declaration with the Judicial Council on or before July 1 at least one year prior to the~~
156 ~~effective date of the election.~~

157 (b) A municipality or county establishing a justice court shall demonstrate to the
158 Judicial Council that a justice court is needed. In evaluating the need for ~~[the creation of a~~
159 ~~Class III or Class IV] a justice court, the Judicial Council shall consider factors of population,~~
160 ~~case filings, public convenience, availability of law enforcement agencies and court support~~
161 ~~services, proximity to other courts, and any special circumstances.~~

162 ~~[(c) The Judicial Council shall determine whether the municipality or county seeking to~~
163 ~~create a Class III or Class IV justice court has established the need for the court.]~~

164 ~~[(d)] (c) [Upon demonstration of compliance with operating standards as established by~~
165 ~~statute and the Judicial Council, the] The Judicial Council shall certify the [creation of the]~~
166 ~~establishment of a justice court pursuant to Section 78A-7-103[-], if the council determines:~~

167 (i) a need exists;

168 (ii) the municipality or county has filed a timely application; and

169 (iii) the proposed justice court will be in compliance with all of the operating standards
170 established by statute and the Judicial Council.

171 ~~[(5) (a) The following municipalities may create a justice court by filing a written~~
172 ~~declaration with the Judicial Council: American Fork, Bountiful, Brigham City, Cedar City,~~
173 ~~Clearfield, Elk Ridge, Kaysville, Layton, Logan, Moab, Murray, Ogden, Orem, Park City,~~
174 ~~Price, Provo, Richfield, Roosevelt, Roy, Salem, Salt Lake City, Sandy, Spanish Fork, St.~~
175 ~~George, Taylorsville, Tooele, Vernal, and West Valley City.]~~

176 ~~[(b) To form a Class I or Class II justice court, the municipalities listed in Subsection~~
177 ~~(5)(a) shall file a written declaration with the Judicial Council on or before July 1 at least two~~
178 ~~years prior to the effective date of the election.]~~

179 ~~[(c) To form a Class III or Class IV justice court, the municipalities listed in Subsection~~
180 ~~(5)(a) shall file a written declaration with the Judicial Council on or before July 1 at least one~~
181 ~~year prior to the effective date of the election.]~~

182 ~~[(d) Upon demonstration of compliance with operating standards as established by~~

183 ~~statute and the Judicial Council, the Judicial Council shall certify the creation of the court~~
 184 ~~pursuant to Section 78A-7-103.]~~

185 (4) (a) A municipality that has an established justice court may expand the territorial
 186 jurisdiction of its justice court by entering into an agreement pursuant to Title 11, Chapter 13,
 187 Interlocal Cooperation Act, with one or more other municipalities, or the county in which the
 188 municipality exists.

189 (b) A justice court enlarged under this section may not be considered as establishing a
 190 new justice court. An expanded justice court shall demonstrate that it will be in compliance
 191 with all of the requirements of the operating standards as established by statute and the Judicial
 192 Council before the justice court expands.

193 (c) A municipality or county seeking to expand the territorial jurisdiction of a justice
 194 court shall notify the Judicial Council:

195 (i) no later than the notice period required in Section 78A-7-123, when the expanded
 196 justice court is a result of the dissolution of one or more justice courts; or

197 (ii) no later than 180 days before the expanded court seeks to begin operation when the
 198 expanded justice court is a result of other circumstances.

199 (d) The Judicial Council shall certify the expansion of a justice court if it determines
 200 that the expanded justice court is in compliance with the operating standards established by
 201 statute and the Judicial Council.

202 ~~[(6)]~~ (5) Upon request from a municipality or county seeking to create a justice court,
 203 the Judicial Council may shorten the time required between the city's or county's written
 204 declaration or election to create a justice court and the effective date of the election.

205 ~~[(7)]~~ (6) The Judicial Council may by rule provide resources and procedures adequate
 206 for the timely disposition of all matters brought before the courts. The administrative office of
 207 the courts and local governments shall cooperate in allocating resources to operate the courts in
 208 the most efficient and effective manner based on the allocation of responsibility between courts
 209 of record and not of record.

210 Section 4. Section **78A-7-103** is repealed and reenacted to read:

211 **78A-7-103. Minimum standards of justice courts -- Authority of Judicial Council**
 212 **over justice courts.**

213 (1) The Judicial Council shall ensure that:

214 (a) procedures include requirements that every municipality or county that establishes
215 or maintains a justice court provide for the following minimum operating standards:

216 (i) a system to ensure the justice court records all proceedings with a digital audio
217 recording device and maintains the audio recordings for a minimum of one year;

218 (ii) sufficient public prosecutors to perform the prosecutorial duties before the justice
219 court and to attend to the other demands of the justice court;

220 (iii) adequate funding to defend all persons charged with a public offense who are
221 determined by the justice court to be indigent under Title 77, Chapter 32, Indigent Defense Act;

222 (iv) sufficient local peace officers to provide security for the justice court and to attend
223 to the justice court when required;

224 (v) sufficient clerical personnel to serve the needs of the justice court;

225 (vi) sufficient funds to cover the cost of travel and training expenses of clerical
226 personnel and judges at training sessions mandated by the Judicial Council;

227 (vii) adequate courtroom and auxiliary space for the justice court, which need not be
228 specifically constructed for or allocated solely for the justice court when existing facilities
229 adequately serve the purposes of the justice court; and

230 (viii) for each judge of its justice court, a current copy of the Utah Code, the Utah
231 Court Rules Annotated, the justice court manual published by the state court administrator, the
232 county, city, or town ordinances as appropriate, and other legal reference materials as
233 determined to be necessary by the judge; and

234 (b) the Judicial Council's rules and procedures shall:

235 (i) presume that existing justice courts will be recertified at the end of each four-year
236 term if the court continues to meet the minimum requirements for the establishment of a new
237 justice court; or

238 (ii) authorize the Judicial Council, upon request of a municipality or county or upon its
239 own review, when a justice court does not meet the minimum requirements, to:

240 (A) decline recertification of a justice court;

241 (B) revoke the certification of a justice court;

242 (C) extend the time for a justice court to comply with the minimum requirements; or

243 (D) suspend rules of the Judicial Council governing justice courts, if the council

244 believes suspending those rules is the appropriate administrative remedy for the justice courts

245 of this state.

246 Section 5. Section **78A-7-105** is amended to read:

247 **78A-7-105. Territorial jurisdiction -- Voting.**

248 (1) The territorial jurisdiction of county justice courts extends to the limits of the
249 precinct for which the justice court is created and includes all cities or towns within the
250 precinct, except cities where a municipal justice court exists.

251 (2) The territorial jurisdiction of municipal justice courts extends to the corporate
252 limits of the municipality in which the justice court is created.

253 ~~[(3) The territorial jurisdiction of county and municipal justice courts functioning as~~
254 ~~magistrates extends beyond the boundaries in Subsections (1) and (2):]~~

255 ~~[(a) as set forth in Section 78A-2-220; and]~~

256 ~~[(b) to the extent necessary to carry out magisterial functions under Subsection~~
257 ~~77-7-23(2) regarding jailed persons.]~~

258 (3) Justice court judges have the same authority regarding matters within their
259 jurisdiction as judges of courts of record.

260 (4) A justice court may issue all extraordinary writs and other writs as necessary to
261 carry into effect its orders, judgments, and decrees.

262 (5) (a) Except as provided in this Subsection (5), a judgment rendered in a justice court
263 does not create a lien upon any real property of the judgment debtor unless the judgment or
264 abstract of the judgment:

265 (i) is recorded in the office of the county recorder of the county in which the real
266 property of the judgment debtor is located; and

267 (ii) contains the information identifying the judgment debtor in the judgment or
268 abstract of judgment as required in Subsection 78B-5-201(4) or as a separate information
269 statement of the judgment creditor as required in Subsection 78B-5-201(5).

270 (b) The lien runs for eight years from the date the judgment was entered in the district
271 court under Section 78B-5-202 unless the judgment is earlier satisfied.

272 (c) State agencies are exempt from the recording requirement of Subsection (5)(a).

273 Section 6. Section **78A-7-106** is amended to read:

274 **78A-7-106. Jurisdiction.**

275 (1) Justice courts have jurisdiction over class B and C misdemeanors, violation of

276 ordinances, and infractions committed within their territorial jurisdiction by a person 18 years
277 of age or older.

278 (2) Except those offenses over which the juvenile court has exclusive jurisdiction,
279 justice courts have jurisdiction over the following class B and C misdemeanors, violation of
280 ordinances, and infractions committed within their territorial jurisdiction by a person 16 years
281 of age or older:

- 282 (a) Title 23, Wildlife Resources Code of Utah;
- 283 (b) Title 41, Chapter 1a, Motor Vehicle Act;
- 284 (c) Title 41, Chapter 6a, Traffic Code;
- 285 (d) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
286 Operators Act;
- 287 (e) Title 41, Chapter 22, Off-Highway Vehicles;
- 288 (f) Title 73, Chapter 18, State Boating Act;
- 289 (g) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
- 290 (h) Title 73, Chapter 18b, Water Safety; and
- 291 (i) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators
292 Act.

293 (3) Justice Courts have jurisdiction over class C misdemeanor violations of Title 53,
294 Chapter 3, Part 2, Driver Licensing Act.

295 (4) As used in this section, "the court's jurisdiction" means the territorial jurisdiction of
296 a justice court.

297 (5) An offense is committed within the territorial jurisdiction of a justice court if:

- 298 (a) conduct constituting an element of the offense or a result constituting an element of
299 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
300 itself unlawful;
- 301 (b) either a person committing an offense or a victim of an offense is located within the
302 court's jurisdiction at the time the offense is committed;
- 303 (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs
304 within the court's jurisdiction;
- 305 (d) a person commits any act constituting an element of an inchoate offense within the
306 court's jurisdiction, including an agreement in a conspiracy;

307 (e) a person solicits, aids, or abets, or attempts to solicit, aid, or abet another person in
308 the planning or commission of an offense within the court's jurisdiction;

309 (f) the investigation of the offense does not readily indicate in which court's
310 jurisdiction the offense occurred, and:

311 (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
312 passing within the court's jurisdiction;

313 (ii) (A) the offense is committed on or in any body of water bordering on or within this
314 state if the territorial limits of the justice court are adjacent to the body of water; and

315 (B) as used in Subsection (5)(f)(ii)(A), "body of water" includes any stream, river, lake,
316 or reservoir, whether natural or man-made;

317 (iii) a person who commits theft exercises control over the affected property within the
318 court's jurisdiction; or

319 (iv) the offense is committed on or near the boundary of the court's jurisdiction;

320 (g) the offense consists of an unlawful communication that was initiated or received
321 within the court's jurisdiction; or

322 (h) jurisdiction is otherwise specifically provided by law.

323 ~~[(6) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,
324 Small Claims Courts, if a defendant resides in or the debt arose within the territorial
325 jurisdiction of the justice court.]~~

326 ~~[(7)]~~ (6) A justice court judge may transfer a criminal matter in which the defendant is
327 a child to the juvenile court for further proceedings if the justice court judge determines and the
328 juvenile court concurs that the best interests of the ~~[child]~~ minor would be served by the
329 continuing jurisdiction of the juvenile court.

330 ~~[(8) The court may issue all extraordinary writs and other writs necessary to carry into
331 effect its orders, judgments, and decrees.]~~

332 (7) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,
333 Small Claims Courts, if a defendant resides in or the debt arose within the territorial
334 jurisdiction of the justice court.

335 Section 7. Section **78A-7-118** is amended to read:

336 **78A-7-118. Appeals from justice court -- Trial or hearing de novo in district**
337 **court.**

338 (1) In a criminal case, a defendant is entitled to a trial de novo in the district court only
339 if the defendant files a notice of appeal within 30 days of:

340 [~~(a) sentencing after a bench or jury trial, or a plea of guilty in the justice court~~
341 ~~resulting in a finding or verdict of guilt, or]~~

342 (a) imposition of sentence; or

343 (b) a plea of guilty or no contest in the justice court that is held in abeyance.

344 (2) If an appeal under Subsection (1) is of a plea entered pursuant to negotiation with
345 the prosecutor, and the defendant did not reserve the right to appeal as part of the plea
346 negotiation, the negotiation is voided by the appeal.

347 (3) A defendant convicted and sentenced in justice court is entitled to a hearing de
348 novo in the district court on the following matters, if the defendant files a notice of appeal
349 within 30 days of:

350 (a) an order revoking probation;

351 (b) an order entering a judgment of guilt pursuant to the person's failure to fulfil the
352 terms of a plea in abeyance agreement;

353 (c) a sentence entered pursuant to Subsection (3)(b); or

354 (d) an order denying a motion to withdraw a plea.

355 (4) The prosecutor is entitled to a hearing de novo in the district court on:

356 (a) a final judgment of dismissal;

357 (b) an order arresting judgment;

358 (c) an order terminating the prosecution because of a finding of double jeopardy or
359 denial of a speedy trial;

360 (d) a judgment holding invalid any part of a statute or ordinance;

361 (e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of
362 that evidence prevents continued prosecution of an infraction or class C misdemeanor;

363 (f) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of
364 that evidence impairs continued prosecution of a class B misdemeanor; or

365 (g) an order granting a motion to withdraw a plea of guilty or no contest.

366 (5) A notice of appeal for a hearing de novo in the district court on a pretrial order
367 excluding evidence under Subsection (4)(e) or (f) shall be filed within 30 days of the order
368 excluding the evidence.

369 (6) Upon entering a decision in a hearing de novo, the district court shall remand the
370 case to the justice court unless:

- 371 (a) the decision results in immediate dismissal of the case;
 - 372 (b) with agreement of the parties, the district court consents to retain jurisdiction; or
 - 373 (c) the defendant enters a plea of guilty or no contest in the district court.
- 374 (7) The district court shall retain jurisdiction over the case on trial de novo.

375 (8) The decision of the district court is final and may not be appealed unless the district
376 court rules on the constitutionality of a statute or ordinance.

377 Section 8. Section **78A-7-120** is amended to read:

378 **78A-7-120. Disposition of fines.**

379 (1) Except as otherwise specified by this section, fines and forfeitures collected by a
380 justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the
381 court and 1/2 to the treasurer of the local government which prosecutes or which would
382 prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13,
383 Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section
384 if the parties agree.

385 (2) (a) For violation of Title 23, Wildlife Resources Code, the court shall allocate 85%
386 to the Division of Wildlife Resources and 15% to the general fund of the city or county
387 government responsible for the justice court.

388 (b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter
389 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and
390 15% to the general fund of the city or county government responsible for the justice court.

391 (3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer.

392 (4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice
393 court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations
394 and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial
395 Council, shall be paid to the state treasurer and distributed to the class B and C road account.

396 (5) Revenue deposited in the class B and C road account pursuant to Subsection (4) is
397 supplemental to the money appropriated under Section 72-2-107 but shall be expended in the
398 same manner as other class B and C road funds.

399 (6) (a) Fines and forfeitures collected by the court for a second or subsequent violation

400 under Section 41-6a-1713 or Subsection 72-7-409(8)(b) shall be remitted:

401 (i) 60% to the state treasurer to be deposited in the Transportation Fund; and

402 (ii) 40% in accordance with Subsection (1).

403 (b) Fines and forfeitures collected by the court for a second or subsequent violation

404 under Subsection 72-7-409(8)(c) shall be remitted:

405 (i) 50% to the state treasurer to be deposited in the Transportation Fund; and

406 (ii) 50% in accordance with Subsection (1).

407 Section 9. Section ~~78A-7-121~~ is amended to read:

408 **78A-7-121. Funds collected -- Deposits and reports -- Special account --**

409 **Accounting.**

410 (1) (a) [~~Municipal justice~~] Justice courts shall deposit public funds in accordance with
411 Section 51-4-2.

412 (b) The city or county treasurer shall report to the city recorder or county auditor, as
413 appropriate, the sums collected and deposited. The recorder or auditor shall then apportion and
414 remit the collected proceeds as provided in Section 78A-7-120.

415 [~~(c) The municipality shall retain all small claims filing fees including the~~
416 ~~governmental filing fee for actions filed by the municipality as provided in Section~~
417 ~~78A-8-105.~~]

418 [~~(2)(a) County justice courts shall deposit public funds in accordance with Section~~
419 ~~51-4-2.~~]

420 [~~(b) The treasurer shall report to the county auditor the sums collected and deposited.~~
421 ~~The auditor shall then apportion and remit the collected proceeds as provided in Section~~
422 ~~78A-7-120.~~]

423 [~~(c) The county shall retain all small claims filing fees including the governmental~~
424 ~~filing fee for actions filed by the county as provided in Section 78A-8-105.~~]

425 [(3)] (2) Money received or collected on any civil process or order issued from a justice
426 court shall be paid within seven days to the party entitled or authorized to receive it.

427 [(4)] (3) (a) With the approval of the governing body a trust or revolving account may
428 be established in the name of the justice court and the treasurer for the deposit of money
429 collected including bail, restitution, unidentified receipts, and other money that requires special
430 accounting.

431 (b) Disbursements from this account do not require the approval of the auditor,
432 recorder, or governing body.

433 (c) The account shall be reconciled at least quarterly by the auditor of the governing
434 body.

435 Section 10. Section **78A-7-201** is amended to read:

436 **78A-7-201. Justice court judge eligibility -- Mandatory retirement.**

437 (1) A justice court judge shall be:

438 (a) a citizen of the United States;

439 (b) 25 years of age or older;

440 (c) a resident of Utah for at least three years immediately preceding his appointment;

441 (d) a resident of the county in which the court is located or an adjacent county for at
442 least six months immediately preceding appointment; and

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

444 (2) Justice court judges are not required to be admitted to practice law in the state as a
445 qualification to hold office but shall have at the minimum a diploma of graduation from high
446 school or its equivalent.

447 (3) A justice court judge shall be a person who has demonstrated maturity of judgment,
448 integrity, and the ability to understand and apply appropriate law with impartiality.

449 (4) Justice court judges shall retire upon attaining the age of 75 years.

450 ~~[(5) (a) A justice court judge whose tenure in office has terminated due to retirement
451 and who is physically and mentally able to perform the duties of the office may hear a case as
452 prescribed by rule of the Supreme Court.]~~

453 ~~[(b) The retired justice court judge shall take and subscribe an oath of office only upon
454 the first appointment. The retired justice court judge shall receive reasonable compensation for
455 services as set by local ordinance of the municipality or county.]~~

456 Section 11. Section **78A-7-202** is amended to read:

457 **78A-7-202. Justice court judges to be appointed -- Procedure.**

458 (1) As used in this section:

459 (a) "Local government executive" means:

460 (i) for a county:

461 (A) the chair of the county commission in a county operating under the county

462 commission or expanded county commission form of county government;

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

465 (C) the county manager in a county operating under the council-manager form of
466 county government; and

467 (ii) for a city or town:

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

469 (B) the city manager, in the council-manager form of government described in

470 Subsection 10-3b-103(6).

471 (b) "Local legislative body" means:

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

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

474 (2) There is created in each county a county justice court nominating commission to
475 review applicants and make recommendations to the appointing authority for a justice court
476 position. The commission shall be convened when a new justice court judge position is created
477 or when a vacancy in an existing court occurs for a justice court located within the county.

478 (a) Membership of the justice court nominating commission shall be as follows:

479 (i) one member appointed by:

480 (A) the county commission if the county has a county commission form of
481 government; or

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

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

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

486 (B) if the county has more than one municipality, appointment shall be made by a
487 municipal selection committee composed of the mayors of each municipality in the county;

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

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

491 (b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be
492 appointed by the regional bar association. If no regional bar association exists, the state bar

493 association shall make the appointment.

494 (c) Members appointed under Subsections (2)(a)(i) and (ii) may not be the appointing
495 authority or an elected official of ~~[the]~~ a county or municipality.

496 (d) The nominating commission shall submit at least two names to the appointing
497 authority of the jurisdiction expected to be served by the judge. The local government
498 executive shall appoint a judge from the list submitted and the appointment ratified by the local
499 legislative body.

500 (e) The state court administrator shall provide staff to the commission. The Judicial
501 Council shall establish rules and procedures for the conduct of the commission.

502 (3) Judicial vacancies shall be advertised in a newspaper of general circulation, through
503 the Utah State Bar, and other appropriate means.

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

506 (5) Once selected, ~~[the Judicial Council shall certify the judge as qualified to hold~~
507 ~~office upon successful completion of the orientation program]~~ every prospective justice court
508 judge shall attend an orientation seminar conducted under the direction of the Judicial Council.
509 Upon completion of the orientation program, the Judicial Council shall certify the justice court
510 judge as qualified to hold office.

511 (6) The selection of a person to fill the office of justice court judge is effective upon
512 certification of the judge by the Judicial Council. A justice court judge may not perform
513 judicial duties until certified by the Judicial Council.

514 ~~[(7) Upon the expiration of a justice court judge's term of office, the judge shall be~~
515 ~~subject to an unopposed retention election in accordance with the procedures set forth in~~
516 ~~Section 20A-12-201.]~~

517 ~~[(a) in the county or counties in which the court to which the judge is appointed is~~
518 ~~located if the judge is a county justice court judge or a municipal justice court judge in a town~~
519 ~~or city of the fourth or fifth class; or]~~

520 ~~[(b) in the municipality in which the court to which the judge is appointed is located if~~
521 ~~the judge is a municipal justice court judge and Subsection (7)(a) does not apply.]~~

522 ~~[(8) Before each retention election, each justice court judge shall be evaluated in~~
523 ~~accordance with the performance evaluation program established in Title 78A, Chapter 12,~~

524 Judicial Performance Evaluation Commission Act.]

525 ~~[(9) Notwithstanding Subsection (8), each justice court judge who is subject to a~~
526 ~~retention election in 2012, 2014, and 2016, and who is not a full-time justice court judge on~~
527 ~~July 1, 2012, shall be evaluated by the Judicial Performance Evaluation Commission according~~
528 ~~to the following performance standards:]~~

529 ~~[(a) have no less than 30 annual hours of continuing legal education for each year of~~
530 ~~the justice court judge's current term;]~~

531 ~~[(b) have no more than one public reprimand issued by the Judicial Conduct~~
532 ~~Commission or the Supreme Court during the justice court judge's current term; and]~~

533 ~~[(c) have no cases under advisement for more than two months.]~~

534 Section 12. Section 78A-7-203 is amended to read:

535 **78A-7-203. Term of office for justice court judge -- Retention.**

536 (1) The term of a justice court judge is six years beginning the first Monday in January
537 following the date of election.

538 ~~[(2) Notwithstanding Section 20A-12-201, justice court judges holding office or~~
539 ~~appointed to fill any vacancy before January 1, 2009 will stand for election in the 2010 general~~
540 ~~election, unless a municipal justice court judge chooses not to stand for election.]~~

541 ~~[(3)(a) Notwithstanding Section 20A-12-201, any municipal justice court judge~~
542 ~~holding office on January 1, 2009 may serve out their current term if the judge:]~~

543 ~~[(i) stands for retention election in 2010, and is not retained in that election; or]~~

544 ~~[(ii) chooses not to stand for election in 2010.]~~

545 ~~[(b) A vacancy shall then exist in the office on the first Monday in February 2012.]~~

546 (2) Upon the expiration of a justice court judge's term of office, the judge shall be
547 subject to an unopposed retention election in accordance with the procedures set forth in
548 Section 20A-12-201:

549 (a) in the county or counties in which the court to which the judge is appointed is
550 located if the judge is a county justice court judge or a municipal justice court judge in a town
551 or city of the fourth or fifth class; or

552 (b) in the municipality in which the court to which the judge is appointed is located if
553 the judge is a municipal justice court judge and Subsection (2)(a) does not apply.

554 (3) Before each retention election, each justice court judge shall be evaluated in

555 accordance with the performance evaluation program established in Title 78A, Chapter 12,
 556 Judicial Performance Evaluation Commission Act.

557 (4) Notwithstanding Subsection (3), each justice court judge who is subject to a
 558 retention election in 2012, 2014, and 2016, and who is not a full-time justice court judge on
 559 July 1, 2012, shall be evaluated by the Judicial Performance Evaluation Commission according
 560 to the following performance standards:

561 (a) the justice court judge shall have at least 30 annual hours of continuing legal
 562 education for each year of the justice court judge's current term;

563 (b) the justice court judge may not have more than one public reprimand issued by the
 564 Judicial Conduct Commission or the Supreme Court during the justice court judge's current
 565 term; and

566 (c) the justice court judge may not have had any cases under advisement for more than
 567 two months.

568 Section 13. Section **78A-7-204** is amended to read:

569 **78A-7-204. Offices of justice court judges.**

570 (1) Justice court judges holding office in:

571 (a) county precincts are county justice court judges; and

572 (b) cities or towns are municipal justice court judges.

573 (2) The county legislative body may establish a single precinct or divide the county
 574 into multiple precincts to create county justice courts for public convenience.

575 (3) (a) The governing body may ~~assign~~ create as many ~~[justice court judges to a court~~
 576 ~~as]~~ judicial positions as are required for the efficient [judicial] administration of a justice court.

577 (b) If more than one judge is assigned to a court, ~~[any citations, informations, or~~
 578 ~~complaints]~~ all filings within that court shall be assigned to the judges at random unless the
 579 governing body has been authorized to create specialized judicial calendars to serve the
 580 interests of justice.

581 ~~[(4) A municipality or county may contract with any other municipality or~~
 582 ~~municipalities within the county under Title 11, Chapter 13, Interlocal Cooperation Act, to~~
 583 ~~establish a justice court. A justice court established under Title 11, Chapter 13, shall meet the~~
 584 ~~requirements for certification under Section 78A-7-103. A justice court established under Title~~
 585 ~~11, Chapter 13, shall have territorial jurisdiction as if established separately.]~~

586 Section 14. Section **78A-7-205** is amended to read:

587 **78A-7-205. Required annual training -- Expenses -- Failure to attend.**

588 ~~[(1) Prior to assuming office all justice court judges shall attend an orientation seminar~~
589 ~~conducted under the direction of the Judicial Council.]~~

590 ~~[(2)]~~ (1) All justice court judges shall ~~[attend]~~ meet the continuing education
591 ~~[conducted under the supervision]~~ requirements of the Judicial Council each calendar year.

592 ~~[(a)]~~ (2) Successful completion of the continuing education requirement includes
593 instruction regarding competency and understanding of constitutional provisions and laws
594 relating to the jurisdiction of the court, rules of evidence, and rules of civil and criminal
595 procedure as indicated by a certificate awarded by the Judicial Council.

596 ~~[(b) The county or municipality creating and maintaining a justice court shall assume~~
597 ~~the expenses of travel, meals, and lodging for the judge to attend education and training~~
598 ~~seminars conducted by the Judicial Council.]~~

599 ~~[(3) Any judge not obtaining a certificate for two consecutive years may be removed~~
600 ~~from office for cause under this section.]~~

601 ~~[(4)]~~ (3) The Judicial Council shall ~~[inform the Judicial Conduct Commission of the~~
602 ~~names of justice court judges failing to comply with this section]~~ file a formal complaint with
603 the Judicial Conduct Commission against each justice court judge who does not comply with
604 this section.

605 Section 15. Section **78A-7-206** is amended to read:

606 **78A-7-206. Determination of compensation and limits -- Salary survey -- Limits**
607 **on secondary employment -- Prohibition on holding political or elected office -- Penalties.**

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

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

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

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

616 (ii) The caseload of a part-time judge shall be determined by the office of the state

617 court administrator and expressed as a percentage of the caseload of a full-time judge.

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

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

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

625 (e) A justice court judge employed by more than one entity as a justice court judge,
626 may not receive a total salary for service as a justice court judge greater than the salary of a
627 district court judge.

628 (2) A justice court judge may not appear as an attorney in [~~any criminal matter in a~~
629 any;

630 (a) justice court;

631 (b) criminal matter in any federal, state, or [justice] local court [~~or appear as an~~
632 attorney in any justice court or in any]; or

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

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

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

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

643 [~~(6) Any judge who violates this section is subject to removal by the Judicial Conduct~~
644 ~~Commission under Title 78A, Chapter 11, Judicial Conduct Commission.~~]

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

647 Section 16. Section **78A-7-208** is amended to read:

648 **78A-7-208. Temporary justice court judge.**

649 [~~If a justice court judge is absent or disqualified, the appointing authority~~] When
650 necessary, the governing body may appoint [~~another~~] any senior justice court judge, or justice
651 court judge currently holding office within the judicial district or in an adjacent county, to serve
652 as a temporary justice court judge. [~~A retired justice court judge may also be appointed as a~~
653 ~~temporary justice court judge under rule of the Supreme Court.~~]

654 Section 17. Section **78A-7-210** is amended to read:

655 **78A-7-210. Justice court judge administrative responsibilities.**

656 (1) Justice court judges shall comply with and ensure that court personnel comply with
657 applicable county or municipal rules and regulations related to personnel, budgets, and other
658 administrative functions.

659 (2) Failure by the judge to comply with applicable administrative county or municipal
660 rules and regulations may be referred, by the county executive or municipal legislative body, to
661 the state Justice Court Administrator.

662 [~~(3) Compliance with appropriate administrative requirements shall be considered as~~
663 ~~part of the Judicial Council's judicial performance evaluation program for justice court judges.~~]

664 [~~(4)~~] (3) Repeated or willful noncompliance may be referred, by the county executive
665 or municipal legislative body, to the Judicial Conduct Commission.

666 Section 18. Section **78A-7-213** is amended to read:

667 **78A-7-213. Trial facilities -- Hours of business.**

668 (1) A justice court judge shall conduct all official court business in a courtroom or
669 office located in a public facility which is conducive and appropriate to the administration of
670 justice.

671 [~~(2) Each county, city, or town shall provide adequate courtroom and auxiliary space~~
672 ~~for the justice court. The facility need not be specifically constructed for or allocated solely for~~
673 ~~the justice court if existing facilities adequately serve the purposes of the justice court.~~]

674 (2) (a) A county justice court may, at the direction of the county legislative body, hold
675 justice court anywhere in the county as needed but may only hear cases arising within its
676 precinct.

677 (b) A municipal justice court judge shall hold court in the municipality where the court
678 is located.

679 (c) Justice courts may also hold court or conduct hearings or court business in any
680 facility or location authorized by rule of the Judicial Council.

681 (3) Justice courts shall be open and judicial business shall be transacted:

682 (a) five days per week; or

683 (b) no less than four days per week for at least 11 hours per day.

684 (4) The legislative body of the county, city, or town shall establish operating hours for
685 the justice courts within the requirements of Subsection (3) and the code of judicial
686 administration.

687 (5) The hours the courts are open shall be posted conspicuously at the courts and in
688 local public buildings.

689 (6) The clerk of the court and judges of justice courts shall attend the court at regularly
690 scheduled times.

691 (7) By July 1, 2011, all justice courts shall use a common case management system and
692 disposition reporting system as specified by the Judicial Council.

693 Section 19. Section **78A-7-215** is amended to read:

694 **78A-7-215. Monthly reports to court administrator and governing body.**

695 (1) Every justice court [judge] shall file monthly with the state court administrator a
696 report of the judicial business of the judge. The report shall be on forms supplied by the state
697 court administrator.

698 (2) The report shall state the number of criminal and small claims actions filed, the
699 dispositions entered, and other information as specified in the forms.

700 (3) A copy of the report shall be furnished by the justice court [~~judge to the governing~~
701 ~~body in the municipality or county, or~~] to the person or office in the county, city, or town
702 designated by the governing body to receive the report.

703 Section 20. Section **78A-8-101** is amended to read:

704 **78A-8-101. Creation.**

705 There is created a limited jurisdiction division of the district [court] and justice courts
706 designated small claims court.

707 Section 21. **Repealer.**

708 This bill repeals:

709 Section **78A-7-104, Justice court judge authority.**

- 710 Section **78A-7-108, Justice court judge to collect fees before filing action -- Penalty.**
- 711 Section **78A-7-109, Process to any part of the state -- Service.**
- 712 Section **78A-7-110, Docket to be kept -- Enumeration of entries required.**
- 713 Section **78A-7-111, Docket entries -- Prima facie evidence.**
- 714 Section **78A-7-112, Docket index.**
- 715 Section **78A-7-113, Delivery of docket and papers to successor.**
- 716 Section **78A-7-114, Filing and docketing of abstract.**
- 717 Section **78A-7-115, All papers issued, except subpoenas, to be filled out without**
- 718 **blanks.**
- 719 Section **78A-7-116, Execution on judgment.**
- 720 Section **78A-7-117, Judgment not a lien unless so recorded.**
- 721 Section **78A-7-119, Disposition of money received.**
- 722 Section **78A-7-209, Justice court staff to be provided.**
- 723 Section **78A-7-211, Compensation and expenses -- Clerical personnel.**
- 724 Section **78A-7-214, Laws, ordinances, and reference materials provided by**
- 725 **counties, cities, and towns.**

Legislative Review Note
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