



Agenda

Utah Supreme Court Advisory Committee Utah Rules of Appellate Procedure

Chris Ballard, Chair
Nathalie Skibine, Vice Chair

Location: Webex (see calendar appointment for instructions)
Date: June 2, 2022
Time: 12:00 to 1:30 p.m.

Action: Welcome and approval of May 5, 2022 Minutes	Tab 1	Chris Ballard, Chair
Action: Rule 14	Tab 2	Chris Ballard
Action: Rule 4	Tab 3	Chris Ballard, Nathalie Skibine, Clark Sabey, Judge Pohlmon, Mary Westby
Action: Rule 19	Tab 4	Stan Purser
Action: Rule 50	Tab 5	Carol Funk
Action: Rule 22-Juneteenth holiday	Tab 6	Chris Ballard
Discussion: Old/new business		Chris Ballard, Chair

Committee Webpage: <https://www.utcourts.gov/utc/appellate-procedure/>

2022 Meeting schedule:

July 7, 2022	October 6, 2022
August 4, 2022	November 3, 2022
September 1, 2022	December 1, 2022

Tab 1



Minutes

Supreme Court's Advisory Committee on the Utah Rules of Appellate Procedure

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84114

Via WebEx Videoconference
Wednesday, May 5, 2022
12:00 pm to 1:30 pm

PRESENT

Emily Adams
Christopher Ballard—Chair
Troy Booher—
Emeritus Member
Jacqueline Carlton—Guest
Lisa Collins
Carol Funk
Amber Griffith
Michael Judd—
Recording Secretary

Judge Gregory Orme
Judge Jill Pohlman
Stanford Purser
Michelle Quist
Clark Sabey
Nathalie Skibine
Nick Stiles—Staff
Doug Thompson—Guest

EXCUSED

Patrick Burt
Tyler Green
Scarlet Smith
Mary Westby

1. Action: **Chris Ballard**
Approval of April 2022 Minutes

The committee discussed its members' review of the April 2022 minutes, including identification and correction of several errors.

With those corrections made, Judge Orme moved to approve the April 2022 minutes as amended. Nathalie Skibine seconded that motion, and it passed without objection by unanimous consent.

2.

Action:

Chris Ballard

Public Comments on Rules 4 and 20

The committee considered public comments on the proposed changes to Rules 4 and 20. Ms. Skibine expressed her support for the sentiments expressed in those comments, as did several other members and guests, and the committee acknowledged the weight of comments. Chris Ballard expressed a contrary view, and suggested that the type of deadline contemplated in the proposed changes is essential, as without a deadline, certain cases may functionally remain forever open.

The committee considered prior appellate caselaw that may reflect a needed change in these rules and recognized that it's not clear whether those directions in caselaw were ever pursued. Clark Sabey asked whether a simple requirement of "reasonableness" with respect to the deadline issue would address the problems posed in practice.

Doug Thompson spoke, recognizing that attention to an appropriate time limit is important, but also expressing concern that "deprivation of a right" appears to be limited to the examples offered in draft rule.

Judge Orme asked whether any fixed deadline could contain a carve-out for extraordinary circumstances.

The committee engaged in continued discussion regarding the interplay between this amendment and full-scope PCRA revivals. Mr. Sabey suggested more serious discussion may be warranted for a potential one-year fixed deadline, but with some sort of "escape clause." Mr. Sabey added his recollection that he believes the rules committee never took this issue up in 2014.

After that discussion, the committee recognized that it appears to be split on this issue, and it identified two separate issues to be addressed: a deadline issue, and an issue regarding the subsection (f)(5) factors identifying deprivations of rights. The committee agreed to rethink its proposal on the deadline issue, while advancing a proposal regarding the removal of the enumerated showings in subsection (f)(5).

Following that discussion, Michelle Quist moved to insert a period after the word "own" in subsection (f)(5) and delete remainder of section, then to otherwise adopt changes to that section as shown on the screen, including stylistic changes regarding gendered pronouns. Judge Orme seconded that motion, and it passed without

objection by unanimous consent.

The committee determined to create a subcommittee to further its consideration of the “deadline issue.” That committee, which will include Ms. Skibine, Mr. Sabey, Mr. Ballard, Ms. Westby, and Judge Pohlman, will reconsider the issue, including a potential review of a 2014 directive from the Supreme Court. Mr. Sabey noted, and the committee agreed, that it’s more important here to get it right than to do it fast.

Mr. Sabey moved to refer the “deadline issue” to the subcommittee. Judge Orme seconded that motion, and it passed without objection by unanimous consent.

With respect to comments on Rule 20, Mr. Ballard noted that the comments regarding that rule reiterate concerns that the Utah Supreme Court has already addressed in its *Patterson* case. The committee concluded that the comments do not identify any new concerns. Stan Purser noted a needed change to the title header. With no appetite for changing numbering of the rules as a whole, the committee determined that the rule will simply be identified as [REPEALED].

3. Action: Stan Purser
Rule 19

The committee began discussion of Rule 19. Mr. Booher raised a question regarding the page and word limits in subsection (h). The committee also discussed Rule (f)(1), which relates to timing. Mr. Booher suggested that the second sentence appear as its own subsection. The committee also discussed typefaces and the advisability of a certification requirement. Following that brief discussion, the committee determined that the best course would be to revisit Rule 19 in June.

4. Action: Carol Funk
Rule 50

Mr. Sabey suggested that given the scope of the proposed changes to Rule 50, more discussion of those changes is needed than time allowed. The committee agreed and determined that discussion of Rule 50 be deferred until June.

5. **Action:** **Chris Ballard**
Rule 22—Juneteenth Holiday

For the same reasons, discussion of Rule 22 will be deferred until June.

6. **Discussion:** **Chris Ballard**
Old/New Business

None.

7. **Adjourn**

Following that discussion, Ms. Quist moved to adjourn. Judge Pohlman seconded, and there were no objections. The committee's next meeting will take place on June 2, 2022.

Tab 2

- 1 Rule 14. Review of administrative orders: how obtained; intervention.
- 2 (a) **Petition for review of order; joint petition.** When a statute provides for judicial
3 review by or appeal to the Supreme Court or the Court of Appeals of an order or
4 decision of an administrative agency, board, commission, committee, or officer
5 (hereinafter the term “agency” shall include agency, board, commission, committee, or
6 officer), a party seeking review must file a petition for review with the clerk of the
7 appellate court within the time prescribed by statute, or if there is no time prescribed,
8 then within 30 days after the date of the written decision or order. The petition must
9 specify the parties seeking review and must designate the respondent(s) and the order
10 or decision, or part thereof, to be reviewed. In each case, the agency must be named
11 respondent. The State of Utah is a respondent if required by statute, even if not
12 designated in the petition. If two or more persons are entitled to petition for review of
13 the same order and their interests are such as to make joinder practicable, they may file
14 a joint petition for review and may thereafter proceed as a single petitioner.
- 15 (b) **Service of petition.** The petitioner must serve the petition on the respondents and all
16 parties to the proceeding before the agency in a manner provided by Rule [21](#).
- 17 (c) **Intervention.** Any person may file with the clerk of the appellate court a motion to
18 intervene. The motion must contain a concise statement of the interest of the moving
19 party and the grounds on which intervention is sought. A motion to intervene must be
20 filed within 40 days of the date on which the petition for review is filed.
- 21 [\(d\) Additional or Cross-Petition. If a timely petition for review is filed by any party, any](#)
22 [other party may file a petition for review within 14 days after the date on which the first](#)
23 [petition for review was filed, or within the time otherwise prescribed by paragraph \(a\)](#)
24 [of this rule, whichever period last expires.](#)

Tab 3

1 Rule 4. Appeal as of right: when taken.

2 (a) **Appeal from final judgment and order.** In a case in which an appeal is permitted as
3 a matter of right from the trial court to the appellate court, the notice of appeal required
4 by Rule [3](#) shall be filed with the clerk of the trial court within 30 days after the date of
5 entry of the judgment or order appealed from. However, when a judgment or order is
6 entered in a statutory forcible entry or unlawful detainer action, the notice of appeal
7 required by Rule [3](#) shall be filed with the clerk of the trial court within 10 days after the
8 date of entry of the judgment or order appealed from.

9 (b) **Time for appeal extended by certain motions.**

10 (1) If a party timely files in the trial court any of the following, the time for all
11 parties to appeal from the judgment runs from the entry of the dispositive order:

12 (A) A motion for judgment under Rule [50\(b\)](#) of the Utah Rules of Civil
13 Procedure;

14 (B) A motion to amend or make additional findings of fact, whether or not
15 an alteration of the judgment would be required if the motion is granted,
16 under Rule [52\(b\)](#) of the Utah Rules of Civil Procedure;

17 (C) A motion to alter or amend the judgment under Rule [59](#) of the Utah
18 Rules of Civil Procedure;

19 (D) A motion for a new trial under Rule [59](#) of the Utah Rules of Civil
20 Procedure;

21 (E) A motion for relief under Rule [60\(b\)](#) of the Utah Rules of Civil
22 Procedure if the motion is filed no later than 28 days after the judgment is
23 entered;

24 (F) A motion or claim for attorney fees under Rule [73](#) of the Utah Rules of
25 Civil Procedure; or

26 (G) A motion for a new trial under Rule [24](#) of the Utah Rules of Criminal
27 Procedure.

28 (2) A notice of appeal filed after announcement or entry of judgment, but before
29 entry of an order disposing of any motion listed in paragraph (b), shall be treated
30 as filed after entry of the order and on the day thereof, except that such a notice
31 of appeal is effective to appeal only from the underlying judgment. To appeal
32 from a final order disposing of any motion listed in paragraph (b), a party must
33 file a notice of appeal or an amended notice of appeal within the prescribed time
34 measured from the entry of the order.

35 (c) **Filing prior to entry of judgment or order.** A notice of appeal filed after the
36 announcement of a decision, judgment, or order but before entry of the judgment or
37 order shall be treated as filed after such entry and on the day thereof.

38 (d) **Additional or cross-appeal.** If a timely notice of appeal is filed by a party, any other
39 party may file a notice of appeal within 14 days after the date on which the first notice
40 of appeal was filed, or within the time otherwise prescribed by paragraphs (a) and (b) of
41 this rule, whichever period last expires.

42 (e) **Motion for extension of time.**

43 (1) The trial court, upon a showing of good cause, may extend the time for filing
44 a notice of appeal upon motion filed before the expiration of the time prescribed
45 by paragraphs (a) and (b) of this rule. Responses to such motions for an extension
46 of time are disfavored and the court may rule at any time after the filing of the
47 motion. No extension shall exceed 30 days beyond the prescribed time or 14 days
48 beyond the date of entry of the order granting the motion, whichever occurs
49 later.

50 (2) The trial court, upon a showing of good cause or excusable neglect, may
51 extend the time for filing a notice of appeal upon motion filed not later than 30
52 days after the expiration of the time prescribed by paragraphs (a) and (b) of this

53 rule. The court may rule at any time after the filing of the motion. That a movant
54 did not file a notice of appeal to which paragraph (c) would apply is not relevant
55 to the determination of good cause or excusable neglect. No extension shall
56 exceed 30 days beyond the prescribed time or 14 days beyond the date of entry of
57 the order granting the motion, whichever occurs later.

58 (f) Motion to reinstate period for filing a direct appeal in criminal cases. ~~Upon a~~
59 ~~showing that~~

60 (1) If no timely appeal is filed in a criminal case, a defendant ~~was deprived of the~~
61 ~~right to appeal, the trial court shall reinstate the thirty day period for filing a~~
62 ~~direct appeal. A defendant seeking such reinstatement shall~~ may file a ~~written~~
63 motion in the ~~sentencing court and serve the prosecuting entity.~~ trial court to
64 reinstate the time to appeal. The motion must be filed within one year, or within
65 a reasonable time, whichever is later, from the day on which the defendant
66 personally knew, or should have known in the exercise of reasonable diligence,
67 of evidentiary facts forming the basis of the claim that the defendant was
68 deprived of the right to appeal.

69 (2) If the defendant is not represented by counsel and is indigent, the trial court
70 ~~shall~~ must appoint counsel.

71 (3) The motion must be served on the prosecuting entity. The prosecutor ~~shall~~
72 ~~have 30 days after service of the motion to~~ may file a ~~written~~ response. ~~If the~~
73 ~~prosecutor opposes to~~ the motion within 28 days after being served.

74 (4) If the motion to reinstate the time to appeal is opposed, the trial court
75 ~~shall~~ must set a hearing at which the parties may present evidence.

76 (5) The defendant must show that the defendant was deprived of the right to
77 appeal through no fault of the defendant.

78 (6) If the trial court finds by a preponderance of the evidence that the defendant
79 has ~~demonstrated that the defendant was~~ been deprived of the right to appeal, ~~it~~

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80 | ~~shall~~the court must enter an order reinstating the ~~time for~~right to appeal. The
81 | defendant's notice of appeal must be filed with the clerk of the trial court within
82 | 30 days after the date of entry of the order.

83 | **(g) Motion to reinstate period for filing a direct appeal in civil cases.**

84 | (1) The trial court shall reinstate the thirty-day period for filing a direct appeal if
85 | the trial court finds by a preponderance of the evidence that:

86 | (A) The party seeking to appeal lacked actual notice of the entry of
87 | judgment at a time that would have allowed the party to file a timely
88 | motion under paragraph (e) of this rule;

89 | (B) The party seeking to appeal exercised reasonable diligence in
90 | monitoring the proceedings; and

91 | (C) The party, if any, responsible for serving the judgment under Rule
92 | [58A\(d\)](#) of the Utah Rules of Civil Procedure did not promptly serve a copy
93 | of the signed judgment on the party seeking to appeal.

94 | (2) A party seeking such reinstatement shall file a written motion in the trial
95 | court within one year from the entry of judgment. The party shall comply with
96 | Rule [7](#) of the Utah Rules of Civil Procedure and shall serve each of the parties in
97 | accordance with Rule [5](#) of the Utah Rules of Civil Procedure.

98 | (3) If the trial court enters an order reinstating the time for filing a direct appeal,
99 | a notice of appeal must be filed within 30 days after the date of entry of the
100 | order.

Tab 4

1 **Rule 19. Extraordinary writs.**

2 (a) **Petition for extraordinary relief**~~writ to a judge or agency; petition; service and~~
3 ~~filing.~~ When no other plain, speedy, or adequate remedy is available, a person may
4 petition an appellate court for ~~An application for an~~ extraordinary relief~~writ~~ referred to
5 in ~~Rule 65B, U~~Utah Rules of Civil Procedure 65B, ~~directed to a judge, agency, person, or~~
6 ~~entity must be made by filing a petition with the appellate court clerk.~~

7 **(b) Respondents.** The person or entity against whom relief is sought and all parties in
8 any related district court or agency action other than the petitioner are deemed
9 respondents for all purposes.

10 **(c) Filing and service.** The petition must be filed with the appellate clerk and ~~be~~ served
11 on the respondent(s) ~~judge, agency, person, or entity and on all parties to the action or~~
12 ~~case in the trial court.~~ In the event of an original petition in the appellate court where no
13 action is pending in the ~~district~~~~trial~~ court or agency, the petition also must be served
14 ~~personally on the respondent judge, agency, person, or entity and service must be made~~
15 ~~by the most direct means available~~ on all persons or ~~associations~~entities whose interests
16 might be substantially affected.

17 **(d) Filing fee.** The petitioner must pay the prescribed filing fee at the time of filing,
18 unless waived by the court.

19
20 **(e) Contents of petition**~~and filing fee~~. A petition for an extraordinary ~~writ~~relief must
21 contain the following:

22 (1) ~~A~~ list~~statement~~ of all respondents against whom relief is sought, and all
23 others persons or ~~associations~~entities, by name or by class, whose interests might
24 be substantially affected;

25 (2) ~~A~~ a statement of the issues presented and of the relief sought;

26 (3) ~~A~~a statement of the facts necessary to ~~an understanding of~~understand the
27 issues presented by the petition;

28 (4) ~~A~~a statement of the reasons why no other plain, speedy, or adequate remedy
29 exists and why the writ should issue;

30 ~~(5) (10) Where the subject of the petition is an interlocutory order, the~~
31 ~~petitioner must state a statement explaining whether a petition for interlocutory~~
32 ~~appeal has been filed and, if so, summarize its status or, if not, state why~~
33 ~~interlocutory appeal is not a plain, speedy, or adequate remedy;~~

34
35 ~~(5)~~6 Except in cases where the writ is directed to a district court, a statement
36 explaining why it is impractical or inappropriate to file the petition ~~for a writ~~
37 in the district court;

38 ~~(6)~~7 a discussion of points and authorities in support of the petition; ~~and~~Copies
39 ~~of any order or opinion or parts of the record that may be essential to an~~
40 ~~understanding of the matters set forth in the petition;~~

41 ~~(8)~~7 A memorandum of points and authorities in support of the petition; copies
42 of any order or opinion or parts of the record that may be essential to understand
43 the matters set forth in the petition.~~and~~

44 ~~(8) The prescribed filing fee, unless waived by the court.~~

45 ~~(9)~~f **Emergency relief.** When ~~re~~e emergency relief is sought, the petitioner and
46 respondent(s) must also comply with Rule 23C. ~~file a separate petition and comply with~~
47 ~~the additional requirements set forth in Rule 23C(b).~~

48 ~~(10) Where the subject of the petition is an interlocutory order, the petitioner must state~~
49 ~~whether a petition for interlocutory appeal has been filed and, if so, summarize its~~
50 ~~status or, if not, state why interlocutory appeal is not a plain, speedy, or adequate~~
51 ~~remedy.~~

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52 ~~(g) Response to petition. The judge, agency, person, or entity and all parties in the~~
 53 ~~action other than the petitioner will be deemed respondents for all purposes.~~

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54 (1) ~~(1)~~ Timing. Any respondent may file a response within 30 days after the later
 55 of the date the petition is served or the filing fee is paid or waived.

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56 (2) Joint Response. Two or more respondents may respond jointly.

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57 (3) Contents. The response must include, or respond to, as appropriate, the
 58 items in paragraph (e).

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59 (4) Notice of non-participation. If any respondent does not desire to appear in
 60 the proceedings or file a response, that respondent may advise the appellate
 61 court clerk and all parties by letter, but the allegations of the petition will not
 62 thereby be deemed admitted. ~~Where emergency relief is sought, Rule 23C(d)~~
 63 ~~applies. Otherwise, within seven days after the petition is served, any~~
 64 ~~respondent or any other party may file a response in opposition or concurrence,~~
 65 ~~which includes supporting authority.~~

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66 (h) Reply. The petitioner may file a reply within 14 days after service of the response. A
 67 reply must be limited to responding to the facts and arguments raised in the response.

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68 (i) Page and word limits. A petition or response may not exceed 20 pages or 7,000
 69 words. A reply may not exceed 10 pages or 3,500 words. Headings, footnotes, and
 70 quotations count toward the page or word limit, but the cover page or caption, any
 71 tables of content or authorities, signature block, certificates, and any attachments do
 72 not.

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73 (j) Certificate of compliance. A petition, response, and reply must include the filer's
 74 certification that the document complies with:

75 (1) paragraph (i), governing the number of pages or words (the filer may rely on
 76 the word count of the word processing system used to prepare the brief);

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77 (2) Rule 27(a), governing format, typeface, and typesize; and

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78 (3) Rule 21(h), governing filings containing non-public information.

79 **(k~~d~~) Review and disposition of petition.**

80 (1) The court will render a decision based on the petition and any timely
81 response and reply, or it may require briefing or request further information, and
82 may hold oral argument at its discretion. If additional briefing is required, the
83 briefs must comply with Rules 24 and 27. ~~Rule 23C(f) applies to requests for~~
84 ~~hearings in emergency matters.~~

85 (2) With regard to emergency petitions submitted under Rule 23C, and where
86 consultation with other members of the court cannot be timely obtained, a single
87 judge or justice may grant or deny the petition, subject to the court's review at
88 the earliest possible time.

89 (3) With regard to all petitions, a single judge or justice may deny the petition if it
90 is frivolous on its face or fails to materially comply with the requirements of this
91 rule or Rule 65B, Utah Rules of Civil Procedure. A petition's denial by a single
92 judge or justice may be reviewed by the appellate court upon specific request
93 filed within seven days of notice of disposition, but such request may not include
94 any additional argument or briefing.

95 **(e~~l~~) Transmission of record.** In reviewing a petition for extraordinary writ, the appellate
96 court may order transmission of the record, or any relevant portion thereof.

97 **(m~~f~~) Issuing an extraordinary writ on the court's motion.**

98 (1) The appellate court, in aid of its own jurisdiction in extraordinary cases, may
99 on its own motion issue a writ of certiorari directed to a judge, agency, person, or
100 entity.

101 (2) A copy of the writ will be served on the named respondents in the manner
102 and by an individual authorized to accomplish personal service under ~~Rule 4,~~
103 Utah Rules of Civil Procedure 4. In addition, copies of the writ must be
104 transmitted by the appellate court clerk, by the most direct means available, to all

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105 persons or associations whose interests might be substantially affected by the
106 writ.

107 (3) The respondent and the persons or ~~associations~~entities whose interests are
108 substantially affected may, within four days of the writ's issuance, petition the
109 court to dissolve or amend the writ. The petition must be accompanied by a
110 concise statement of the reasons for dissolving or amending the writ.

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Tab 5

1 **Rule 50. Response; reply.**

2 Option 1:

3 (a) **Response.** No petition for writ of certiorari will be granted absent a request by the
4 court for a response, and no response will be received unless requested by the court.

5 Within 30 days after an order requesting a response ~~petition for a writ of certiorari is~~
6 ~~served~~, any other party may file a response. If the petitioner pays the required filing fee
7 or obtains a waiver of that fee after service, then the time for response will run from the
8 date that obligation is satisfied. The response must comply with Rule 27 and, as
9 applicable, Rule 49. A party opposing a petition may so indicate by letter in lieu of a
10 formal response, but the letter may not include any argument or analysis.

11 Option 2:

12 (a) **Response.** Within 30 days after a petition for a writ of certiorari is served, any other
13 party may file a response. If no response is submitted within the allotted time, the court
14 may request a response. No petition for writ of certiorari will be granted unless a
15 response is submitted within the allotted time or subsequently requested by the court. If

16 the petitioner pays the required filing fee or obtains a waiver of that fee after service,
17 then the time for response will run from the date that obligation is satisfied. The
18 response must comply with Rule 27 and, as applicable, Rule 49. A party opposing a
19 petition may so indicate by letter in lieu of a formal response, but the letter may not
20 include any argument or analysis.

1 **Rule 50. Response; reply.**

2 (a) **Response.** Within 30 days after a petition for a writ of certiorari is served, any other
3 party may file a response. If the petitioner pays the required filing fee or obtains a
4 waiver of that fee after service, then the time for response will run from the date that
5 obligation is satisfied. The response must comply with Rule [27](#) and, as applicable, Rule
6 [49](#). A party opposing a petition may so indicate by letter in lieu of a formal response,
7 but the letter may not include any argument or analysis.

8 (b) **Page limitation.** A response must be as short as possible and may not exceed 20
9 pages, excluding the table of contents, the table of authorities, and the appendix.

10 (c) **Objections to jurisdiction.** The court will not accept a motion to dismiss a petition
11 for a writ of certiorari. Objections to the Supreme Court’s jurisdiction to grant the
12 petition may be included in the response.

13 (d) **Reply.** A petitioner may file a reply addressed to arguments first raised in the
14 response within 7 days after the response is served, but distribution of the petition and
15 response to the court ordinarily will not be delayed pending the filing of any such reply
16 unless the response includes a new request for relief, such as an award of attorney fees
17 for the response. The reply must be as short as possible, may not exceed five pages, and
18 must comply with Rule [27](#).

19 Effective May 1, 2022

Tab 6

§ 6103. Holidays, 5 USCA § 6103

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

United States Code Annotated
Title 5. Government Organization and Employees (Refs & Annos)
Part III. Employees (Refs & Annos)
Subpart E. Attendance and Leave
Chapter 61. Hours of Work (Refs & Annos)
Subchapter I. General Provisions (Refs & Annos)

5 U.S.C.A. § 6103

§ 6103. Holidays

Effective: June 17, 2021

Currentness

(a) The following are legal public holidays:

New Year's Day, January 1.

Birthday of Martin Luther King, Jr., the third Monday in January.

Washington's Birthday, the third Monday in February.

Memorial Day, the last Monday in May.

Juneteenth National Independence Day, June 19.

Independence Day, July 4.

Labor Day, the first Monday in September.

Columbus Day, the second Monday in October.

Veterans Day, November 11.

Thanksgiving Day, the fourth Thursday in November.

Christmas Day, December 25.

(b) For the purpose of statutes relating to pay and leave of employees, with respect to a legal public holiday and any other day declared to be a holiday by Federal statute or Executive order, the following rules apply:

(1) Instead of a holiday that occurs on a Saturday, the Friday immediately before is a legal public holiday for--

(A) employees whose basic workweek is Monday through Friday; and

(B) the purpose of [section 6309](#) of this title.

(2) Instead of a holiday that occurs on a regular weekly non-workday of an employee whose basic workweek is other than Monday through Friday, except the regular weekly non-workday administratively scheduled for the employee instead of Sunday, the workday immediately before that regular weekly nonworkday is a legal public holiday for the employee.

(3) Instead of a holiday that is designated under subsection (a) to occur on a Monday, for an employee at a duty post outside the United States whose basic workweek is other than Monday through Friday, and for whom Monday is a regularly scheduled workday, the legal public holiday is the first workday of the workweek in which the Monday designated for the observance of such holiday under subsection (a) occurs.

This subsection, except subparagraph (B) of paragraph (1), does not apply to an employee whose basic workweek is Monday through Saturday.

(c) January 20 of each fourth year after 1965, Inauguration Day, is a legal public holiday for the purpose of statutes relating to pay and leave of employees as defined by [section 2105](#) of this title and individuals employed by the government of the District of Columbia employed in the District of Columbia, Montgomery and Prince Georges Counties in Maryland, Arlington and Fairfax Counties in Virginia, and the cities of Alexandria and Falls Church in Virginia. When January 20 of any fourth year after 1965 falls on Sunday, the next succeeding day selected for the public observance of the inauguration of the President is a legal public holiday for the purpose of this subsection.

(d)(1) For purposes of this subsection--

(A) the term “compressed schedule” has the meaning given such term by [section 6121\(5\)](#); and

(B) the term “adverse agency impact” has the meaning given such term by [section 6131\(b\)](#).

(2) An agency may prescribe rules under which employees on a compressed schedule may, in the case of a holiday that occurs on a regularly scheduled non-workday for such employees, and notwithstanding any other provision of law or the terms of any collective bargaining agreement, be required to observe such holiday on a workday other than as provided by subsection (b), if the agency head determines that it is necessary to do so in order to prevent an adverse agency impact.

CREDIT(S)

(Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 515; Pub.L. 90-363, § 1(a), June 28, 1968, 82 Stat. 250; Pub.L. 94-97, Sept. 18, 1975, 89 Stat. 479; Pub.L. 98-144, § 1, Nov. 2, 1983, 97 Stat. 917; Pub.L. 104-201, Div. A, Title XVI, § 1613, Sept. 23, 1996, 110 Stat. 2739; Pub.L. 105-261, Div. A, Title XI, § 1107, Oct. 17, 1998, 112 Stat. 2142; Pub.L. 117-17, § 2, June 17, 2021, 135 Stat. 287.)

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 10358

Ex. Ord. No. 10358, June 9, 1952, 17 F.R. 1529, as amended by Ex. Ord. No. 11226, May 27, 1965, 30 F.R. 7213; Ex. Ord. No. 11272, Feb. 23, 1966, 31 F.R. 3111, formerly set out as a note under this section, which related to the observance of holidays, was revoked by Ex. Ord. No. 11582, Feb. 11, 1971, 36 F.R. 2957, set out under this section.

EXECUTIVE ORDER NO. 11582

<Feb. 11, 1971, 36 F.R. 2957>

Observance of Holidays

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

Section 1. Except as provided in section 7, this order shall apply to all executive departments, independent agencies, and Government corporations, including their field services.

Sec. 2. As used in this order:

(a) Holiday means the first day of January, the third Monday of February, the last Monday of May, the fourth day of July, the first Monday of September, the second Monday of October, the fourth Monday of October, the fourth Thursday of November, the twenty-fifth day of December, or any other calendar day designated as a holiday by Federal statute or Executive order.

(b) Workday means those hours which comprise in sequence the employee's regular daily tour of duty within any 24-hour period, whether falling entirely within one calendar day or not.

Sec. 3. (a) Any employee whose basic workweek does not include Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on Sunday.

(b) Any employee whose basic workweek includes Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on a day that has been administratively scheduled as his regular weekly nonworkday in lieu of Sunday.

Sec. 4. The holiday for a full-time employee for whom the head of a department has established the first 40 hours of duty performed within a period of not more than six days of the administrative workweek as his basic workweek because of the impracticability of prescribing a regular schedule of definite hours of duty for each workday, shall be determined as follows:

(a) If a holiday occurs on Sunday, the head of the department shall designate in advance either Sunday or Monday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(b) If a holiday occurs on Saturday, the head of the department shall designate in advance either the Saturday or the preceding Friday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(c) If a holiday occurs on any other day of the week, that day shall be the employee's holiday, and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on that day.

(d) When a holiday is less than a full day, proportionate credit will be given under paragraph (a), (b), or (c) of this section.

Sec. 5. Any employee whose workday covers portions of two calendar days and who would, except for this section, ordinarily be excused from work scheduled for the hours of any calendar day on which a holiday falls, shall instead be excused from work on his entire workday which commences on any such calendar day.

Sec. 6. In administering the provisions of law relating to pay and leave of absence, the workdays referred to in sections 3, 4, and 5 shall be treated as holidays in lieu of the corresponding calendar holidays.

Sec. 7. The provisions of this order shall apply to officers and employees of the Post Office Department and the United States Postal Service (except that sections 3, 4, 5, and 6 shall not apply to the Postal Field Service) until changed by the Postal Service in accordance with the Postal Reorganization Act [see Short Title note under [39 U.S.C.A. § 101](#)].

Sec. 8. Executive Order No. 10358 of June 9, 1952, entitled **Observance of Holidays by Government Agencies**, and amendatory Executive Orders No. 11226 of May 27, 1965, and No. 11272 of February 23, 1966, are revoked.

Sec. 9. This order is effective as of January 1, 1971.

Richard Nixon

Notes of Decisions (13)

5 U.S.C.A. § 6103, 5 USCA § 6103

Current through P.L. 117-102. Some statute sections may be more current, see credits for details.

§ 6103. Holidays, 5 USCA § 6103

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2022 Utah Laws H.B. 238 (West's No. 328)

UTAH 2022 SESSION LAWS

64th LEGISLATURE, 2022 GENERAL SESSION

Additions are indicated by **Text**; deletions by
~~Text~~.

Vetoed are indicated by ~~Text~~;
stricken material by ~~Text~~.

HB 238

West's No. 328

STATE HOLIDAY MODIFICATIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sandra Hollins

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends provisions related to state holidays.

Highlighted Provisions:

This bill:

. provides for the observation of Juneteenth National Freedom Day each year as a holiday throughout the State.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-301, as last amended by Laws of Utah 2021, Chapters 335 and 344

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

Section 1. Section 63G-1-301 is amended to read:

<< UT ST § 63G-1-301 >>

§ 63G-1-301. Legal holidays—Personal preference day—Governor authorized to declare additional days

(1)(a) The following-named days are legal holidays in this state:

- (i) every Sunday, except as provided in Subsection (1)(e);
- (ii) January 1, called New Year's Day;
- (iii) the third Monday of January, called Dr. Martin Luther King, Jr. Day;
- (iv) the third Monday of February, called Washington and Lincoln Day;
- (v) the last Monday of May, called Memorial Day;

(vi) on the day described in Subsection (1)(f), Juneteenth National Freedom Day;

- ~~(vi)~~(vii) July 4, called Independence Day;
- ~~(vii)~~(viii) July 24, called Pioneer Day;
- ~~(viii)~~(ix) the first Monday of September, called Labor Day;
- ~~(ix)~~(x) the second Monday of October, called Columbus Day;
- ~~(x)~~(xi) November 11, called Veterans Day;
- ~~(xi)~~(xii) the fourth Thursday of November, called Thanksgiving Day;
- ~~(xii)~~(xiii) December 25, called Christmas; and
- ~~(xiii)~~(xiv) all days which may be set apart by the President of the United States, or the governor of this state by proclamation as days of fast or thanksgiving.

(b) If any of the holidays under Subsections (1)(a)(ii) through ~~(xiii)~~ (v) or Subsections (1)(a)(vii) through (xiv), falls on Sunday, then the following Monday shall be the holiday.

(c) If any of the holidays under Subsections (1)(a)(ii) through ~~(xiii)~~ **(v) or Subsections (1)(a)(vii) through (xiv)** falls on Saturday, then the preceding Friday shall be the holiday.

(d) Each employee may select one additional day, called Personal Preference Day, to be scheduled pursuant to rules adopted by the Division of Human Resource Management.

(e) For purposes of Utah Constitution Article VI, Section 16, Subsection (1), regarding the exclusion of state holidays from the 45-day legislative general session, Sunday is not considered a state holiday.

(f)(i) The Juneteenth National Freedom Day holiday is on June 19, if that day is on a Monday.

(ii) If June 19 is on a Tuesday, Wednesday, Thursday, or Friday, the Juneteenth National Freedom Day holiday is on the immediately preceding Monday.

(iii) If June 19 is on a Saturday or Sunday, the Juneteenth National Freedom Day holiday is on the immediately following Monday.

(2)(a) Whenever in the governor's opinion extraordinary conditions exist justifying the action, the governor may:

(i) declare, by proclamation, legal holidays in addition to those holidays under Subsection (1); and

(ii) limit the holidays to certain classes of business and activities to be designated by the governor.

(b) A holiday may not extend for a longer period than 60 consecutive days.

(c) Any holiday may be renewed for one or more periods not exceeding 30 days each as the governor may consider necessary, and any holiday may, by like proclamation, be terminated before the expiration of the period for which it was declared.

Effective May 4, 2022.

Approved March 24, 2022

Note: Highlighted sections are amendments previously approved by the Committee.

1 **Rule 22. Computation and enlargement of time.**

2 (a) **Computation of time.** In computing any period of time prescribed by these rules, by
3 ~~an order of the court's order~~, or by any applicable statute, the day of the act, event, or
4 default from which the designated period of time begins to run ~~shall~~may not be
5 included. If the designated period of time begins to run from the date of entry of an
6 order or judgment and the order or judgment is entered on a Saturday, Sunday, or legal
7 holiday, the date of entry will be deemed to be the first day following the entry that is
8 not a Saturday, Sunday, or legal holiday. The last day of the period ~~shall~~must be
9 included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period
10 extends until the end of the next day that is not a Saturday, a Sunday, or a legal holiday.
11 When the period of time prescribed or allowed, without reference to any additional
12 time under ~~subsection paragraph~~ (d), is less than 11 days, intermediate Saturdays,
13 Sundays, and legal holidays ~~shall~~must be excluded in the computation. As used in this
14 rule, "legal holiday" includes days designated as holidays by the state or federal
15 governments.

16 (b) **Enlargement of time.**

17 ~~(b)~~(1) Motions for an enlargement of time for filing briefs beyond the time
18 permitted by stipulation of the parties under Rule [26\(a\)](#) are not favored.

19 ~~(b)~~(2) The court for good cause shown may upon motion extend the time
20 prescribed by these rules or by its order for doing any act, or may permit an act
21 to be done after the expiration of time. This rule does not authorize the court to
22 extend the jurisdictional deadlines specified by any of the rules listed in Rule [2](#).
23 For the purpose of this rule, good cause includes, but is not limited to, the
24 complexity of the case on appeal, engagement in other litigation, and extreme
25 hardship to counsel.

26 | ~~(b)~~(3) A motion for an enlargement of time shall be filed prior to the expiration of
27 | the time for which the enlargement is sought.

28 | ~~(b)~~(4) A motion for enlargement of time shall state:

29 | ~~(b)~~(4)(A) with particularity the good cause for granting the motion;

30 | ~~(b)~~(4)(B) whether the movant has previously been granted an enlargement
31 | of time and, if so, the number and duration of such enlargements;

32 | ~~(b)~~(4)(C) when the time will expire for doing the act for which the
33 | enlargement of time is sought; ~~and~~

34 | ~~(b)~~(4)(D) the date on which the act for which the enlargement of time is
35 | sought will be completed; and

36 | (E) the position of every other party on the requested extension or why the
37 | movant was unable to learn a party's position.

38 | ~~(b)~~(5)(A) If the good cause relied upon is engagement in other litigation, the
39 | motion ~~shall~~must:

40 | ~~(b)~~(5)(A)(i) identify such litigation by caption, number and court;

41 | ~~(b)~~(5)(B)(ii) describe the action of the court in the other litigation on a
42 | motion for continuance;

43 | ~~(b)~~(5)(C)(iii) state the reasons why the other litigation should take
44 | precedence over the subject appeal;

45 | ~~(b)~~(5)(D)(iv) state the reasons why associated counsel cannot prepare the
46 | brief for timely filing or relieve the movant in the other litigation; and

47 | ~~(b)~~(5)(E)(v) identify any other relevant circumstances.

48 | ~~(b)~~(6)(B) If the good cause relied upon is the complexity of the appeal, the
49 | movant ~~shall~~must state the reasons why the appeal is so complex that an
50 | adequate brief cannot reasonably be prepared by the due date.

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51 | ~~(b)(7)(E)~~(C) If the good cause relied upon is extreme hardship to counsel, the
52 | movant ~~shall~~must state in detail the nature of the hardship.

53 | ~~(b)(8)(D)~~(D) All facts supporting good cause ~~shall~~must be stated with specificity.
54 | Generalities, such as “the motion is not for the purpose of delay” or “counsel is
55 | engaged in other litigation,” are insufficient.

56 | (c) **Ex parte motion.** Except as to enlargements of time for filing and service of briefs
57 | under Rule 26(a), a party may file one ex parte motion for enlargement of time not to
58 | exceed 14 days if no enlargement of time has been previously granted, if the time has
59 | not already expired for doing the act for which the enlargement is sought, and if the
60 | motion otherwise complies with the requirements and limitations of paragraph (b) of
61 | this rule.

62 | (d) **Additional time after service by mail.** Whenever a party is required or permitted to
63 | do an act within a prescribed period after service of a ~~paper~~document and the ~~paper~~
64 | document is served by mail, 3 days shall be added to the prescribed period.

65 | *Effective November 14, 2016*

66 | **Advisory Committee Note**

67 | A motion to enlarge time must be filed prior to the expiration of the time sought to be
68 | enlarged. A specific date on which the act will be completed must be provided. The
69 | court may grant an extension of time after the original deadline has expired, but the
70 | motion to enlarge the time must be filed prior to the deadline.

71 | Both appellate courts place appeals in the oral argument queue in accordance with the
72 | priority of the case and after principal briefs have been filed. Delays in the completion
73 | of briefing will likely delay the date of oral argument.

74 | *Adopted 2020*