

## JUDICIAL COUNCIL PLANNING AGENDA AUGUST 26 & 27, 1998

### Wednesday, August 26, 1998

8:30 a.m. Continental Breakfast

#### **I. Overview**

9:00 a.m. Welcome  
*Chief Justice Richard C. Howe*  
Overview of Planning Agenda  
*Dan Becker*

9:15 a.m. Executive Branch Remarks  
*Ted Stewart, Chief of Staff, Governor's Office*  
*Lynn Koga, Director, Office of Planning and Budget*

9:45 a.m. Placing Budget Proposals in Context  
Workload/Demographic Trends  
*Dan Becker and Eric Leeson*  
Fiscal Trends & Budget Process  
*Dan Becker and Fred Jayne*  
FY 2000 Proposals in Summary  
*Dan Becker*

10:30 a.m. Break

#### **II. Building Block Presentations**

10:45 a. m. Base Budget  
*Myron March*

11:00 a.m. Appellate Courts  
*Judge Michael J. Wilkins*  
*Marilyn (Matty) Branch*

11:15 a.m. District Board Report  
*Judge J. Michael Lyon*

Wednesday, August 26 cont.

12:15 p.m.	Lunch Break
1:30 p.m.	Technology Committee Report <i>Judge Michael J. Wilkins</i>
2:00 p.m.	Juvenile Board Report <i>Judge Hans Q. Chamberlain</i>
2:30 p.m.	Facilities Committee Report (Including Capital Projects) <i>Judge Hans Q. Chamberlain</i> <i>Gordon Bissegger</i>
2:45 p.m.	Break
3:00 p.m.	Security Committee Report <i>Myron March</i>
3:30 p.m.	Guardian ad Litem <i>Kristin Brewer</i>
4:00 p.m.	Other Judicial Compensation <i>Myron March</i> <i>Fred Jayne</i>
4:15 p.m.	Supplementals <i>Fred Jayne</i>


# Administrative Office of the Court

Chief Justice Richard C Howe  
Chair Utah Judicial Council

Daniel J. Becker  
State Court Administrator  
Myron K. March  
Deputy Court Administrator  
450 So. State St.  
P.O.Box 140241  
Salt Lake City, Utah 84114-0241  
Phone: (801) 578-3800  
Fax: (801) 578-3843

## MEMORANDUM

**To:** Judge Michael J. Wilkins  
Judge J. Michael Lyon  
Judge Hans Q. Chamberlain  
Kristen Brewer

**From:** Dan Becker 

**Date:** August 19, 1998

**Subject:** Court Administrator's Review and Recommendations: FY 2000 Budget Plan

The enclosed material is being provided to the Judicial Council for their consideration during the Budget Planning Session next week. In that each of you are making budget presentations and my recommendations address some or all of the requests you are advancing, I wanted you to have the benefit of what I am providing the Council.

The purpose in preparing this material is to provide yet another perspective to the budget requests which the Council will be considering. In this instance, a state-wide perspective which considers all the requests within the context of the limitations imposed by the budget guidelines of the Governor's Office of Planning and Budget. The presentation you will make will be from the perspective of the needs of the court level or office you represent and it is important for the Council to hear what those needs are in their entirety, without the guideline limitations.

I will look forward to seeing you next Wednesday.


pc: Myron March  
Mark Jones  
Gordon Bissigger  
Ray Wahl

# Administrative Office of the Court

Chief Justice Richard C Howe  
Chair Utah Judicial Council

Daniel J. Becker  
State Court Administrator  
Myron K. March  
Deputy Court Administrator  
450 So. State St.  
P.O.Box 140241  
Salt Lake City, Utah 84114-0241  
Phone: (801) 578-3800  
Fax: (801) 578-3843

## Memo

**To:** Judge Michael Wilkins  
Judge Michael Lyon  
Judge Hans Q. Chamberlain  
Kristin Brewer  
**From:**  Cindy Williamson  
**Subject:** Meeting Location  
**Date:** August 20, 1998

The Judicial Council will be holding their Annual Planning Meeting in Park City at the Lodge Resort Center, 1415 Lowell Ave. in the Payday/Lake Placid Room.

## **Court Administrator's Review and Recommendations: FY 2000 Budget Plan**

The following material reflects recommendations prepared by the court administrator for the Judicial Council as a supplement to the budget planning material prepared by the individual boards, Council standing committees and offices. Each of the budget requests advanced for consideration has been prepared from the perspective of the individual court level, committee, or office and represents their specific needs, initiatives, and priorities. The Court Administrator's recommendations attempt to examine these requests from a system-wide perspective within the realities imposed by the budget preparation guidelines issued by the Governor's Office of Planning and Budget (GOPB).

For Fiscal Year 2000, the GOPB guidelines set a limit on requests for new General Fund appropriations at 2% of the FY 1999 ongoing state fund appropriation. The same limit set last year. The FY 1999 General Fund budget for the courts is \$83,495,700 and 2% of that amount equals \$1,669,914. A total of \$5,292,500 in new building block requests were submitted to the Judicial Council for consideration in the FY 2000 Budget Plan. The recommendations set out below are based on the assumption that, as in past years, the Judicial Council will advance a budget plan consistent with the spirit of the guidelines issued by the Governor's Office. The recommendations reflect the perspective of the Court Administrator's Office and are intended to provide a point of departure for the Council's discussion and consideration of other perspectives.

The recommendations which follow depart from the last two years in several ways: 1) the number of individual building blocks have been reduced by about half the number included in the plan the last several years; 2) there is a predominant focus, namely strengthening the clerk of court operation; and, 3) a reliance on grants and funds other than the general fund to address select requests.

### **Recommendations at the 2% Funding Level**

The following items are recommended for inclusion in the budget plan at the level of 2% of the existing General Fund appropriation:

#### **1. Strengthening the Clerk of Court Operation**

-	New Deputy Clerk Positions (20)	825,500
-	Selective Salary adjustment for clerical positions	235,000
-	CORIS Performance Enhancements	250,000

#### **2. Base Budget Increase**

200,000

#### **3. District Court Law Clerk (1)**

59,400

4. Guardian Ad Litem (4 part-time attorneys)

100,000

Total

-----  
\$1,699,900

**Strengthening the Clerk of Court Operation:** From the perspective of the court administrator, strengthening the Clerk of Court operation should be our highest priority for the coming year. The extent to which the courts at all levels receive appropriate support, and the public receives the services to which they are entitled, depends on our clerks offices being adequately staffed, personnel being paid a salary which will permit the recruitment and retention of a quality work force, and dependable and effective modern business tools being in place. All three of these areas require attention.

Both the District Court and the Juvenile Court Boards advanced requests for additional deputy clerk positions, for a total of 31 positions. The District Court Board made additional clerks its highest priority. Every other component of the trial court system has seen material change in response to the caseload increases facing the courts, with the exception of the clerks offices. Additional judges, both District and Juvenile Court, have been provided over the past five years, and the Juvenile Court probation staff was increased substantially with funding resulting from the work of the Juvenile Justice Task Force. Increases in clerk staff, however, have been limited to positions which have accompanied new judgeships, or in response to the fiscal notes attached to new legislation which place additional burdens on the office. In some instances, such as the domestic violence legislation passed several years ago, the fiscal note providing additional staff did not accompany the passage of the legislation. As a consequence, clerks offices have been shouldering an increasingly heavy workload. Contrasting clerks with other trial court personnel, shows that since FY1994 the number of judges have increased by 25.6%, probation officers by 96.5%, while the number of clerk personnel increased by 5.6%. In addition to addressing workload per clerk, consideration should be given to using this increase in staff to enhance customer service by extending the hours which Clerk Offices are open to serve the public.

Attracting and retaining a qualified workforce for the clerk's offices has become increasingly difficult. Separations of experienced employees are increasing and the turnover rate of new employees is alarming. The pay plan which is in place for clerks needs to be changed if we are to be able to attract and retain a workforce capable of performing work which is becoming increasingly complex and stressful. A market analysis for clerk positions completed by the Administrative Office of the Courts shows that adjustments to the pay scale are required. Implementing a new pay plan will require an adjustment of the entry level pay, as well as select in-range adjustments for the existing workforce. Funds available through turnover savings in FY1999 will cover approximately half of the cost of implementing these adjustments. It is recommended that a building block of \$235,000 be advanced for the balance of the cost for full implementation.

As of July 30, 1998, the CORIS system is operational in every court-site in the state. Full implementation was possible as a result of an accelerated schedule which required other automation projects and CORIS enhancements to be deferred. This implementation was also accomplished in a year in which the budget for data processing had been reduced by \$462,100. With implementation now complete, it is apparent that the effectiveness of this tool is being seriously compromised by needed software, hardware, and line upgrades. The response time in those locations requiring one or several of these upgrades is adversely affecting the speed with which staff are able to complete their work. In addition, user experience has identified changes which should be made to both increase speed and enhance the tasks performed by the system. The \$250,000 recommended is capped by the 2% and other demands, not by the actual need.

**Base Budget Increase:** An increase in the base budget is necessary to make up ground up in the reduced spending power of the courts dollar as a result of inflation. That need alone is sufficient to seek and prioritize an increase for the base budget. However, the need for some adjustment is exacerbated by the fact the Legislature has not funded capital equipment budgets and has required that salary selective adjustments be funded within existing budgets. These pressures have placed the base budget under considerable strain.

The guidelines provided by GOPB state that "agencies are to fund inflationary increases for FY 2000 within existing budgets." This same language has been included in the guidelines for a number of years. The cumulative effect of this policy has become increasingly burdensome for the courts because of the high percentage of our budget which is in fixed personnel and lease costs, which is less the case in many other agencies. In this instance, I would suggest a departure from the GOPB guidelines and recommend that we seek a building block for the base in the amount of \$200,000, which is only a portion of that required to keep pace with inflation.

**District Court Law Clerk:** The District Board requested funding for five additional Law Clerks, one of which would be replacement funding for the Capital Law Clerk currently funded through a grant from the State Justice Institute. At the 2% level, it is recommended that only one Law Clerk position be funded.

Currently, six of the eight districts have Law Clerk service. Of the two remaining districts, the 6th and 8th, the 8th District has requested a clerk this year. The District Board placed a priority on continuing the Capital Law Clerk. Assuming that the District Court Board continues to regard the Capital Law Clerk position as effective, it is recommended that this position be funded if only one Law Clerk is advanced. This position is a state-wide resource and the Board has also advanced the proposition that this position could assist the Board in developing and maintaining an automated bench book.

**Guardian ad Litem:** Two years ago at the Budget Planning Session, the request from the Guardian ad Litem was for \$899,000 in new funding to address the increase in caseload. In the Court Administrator's recommendations it was acknowledged that, given competing demands, such an increase would have to be addressed incrementally. Approximately a third of that

amount was advanced as a building block and the Legislature provided approximately \$410,000 through a combination of general fund, Childrens' Legal Defense funding, and a percentage of the criminal surcharge. Last year, a building block of \$55,000 was advanced and the legislature provided no new funding. This year's request by the Guardian ad Litem of \$632,900 is relatively consistent with the remaining two thirds of the amount advanced two years ago.

A recommendation of \$100,000 is made which will enable the employment of part-time attorneys in the most critical areas. In this year's request, it should be noted that much of the growth which this office is trying to respond to is in the District Court rather than the primary area of responsibility, the Juvenile Court. It is now apparent that the need and reliance on the Guardian ad Litem by the District Court has grown considerably from the estimates advanced when the statute was amended to provide for representation in District Court domestic relations cases. This portion of the workload now accounts for 25% of the caseload state-wide, and up to 50% in some districts. The caseload and, in turn, the budget demands of this office will likely increase. Advancing an adequate budget is not possible within the 2% guidelines. If the budget can not be increased, consideration should be given to revisiting the statutory responsibilities of the Guardian ad Litem, including whether responsibilities in domestic relations cases should be reconsidered. Other options to increase coverage and reduce costs in these cases, such as pro bono services, have already been implemented and the demand continues to increase.

**Recommendations Outside of the 2% :** For the past two years we have requested of the Governor's Office an exemption for select types of funding requirements which we felt should lie outside of the 2% guideline because they involved expenditures over which there was little or no discretion. Last year, our request that increases for leases and security be considered outside of the 2% was honored. This year I would recommend that we advance the following as requests which should lie outside the 2%:

-	Leases O&M	\$996,800
-	Security	\$328,350
-	Court Connection to State Human Resource System	\$59,745
-	Juvenile Child Welfare Mediation	\$80,300 (One time)

**Leases:** This year in the GOPB guidelines Leases O&M for the courts was included on a list of items specifically exempted from the 2% guidelines. In that these expenses reflect obligations made when the individual projects was approved or contracts let, approval of the amount requested is recommended.

**Security:** It is recommended that, like last year, the request for security also be advanced as exempt from the 2% guideline. This is justified on the basis that security funding is essentially



passed through to county sheriffs budget under a contract with the court. We are presently receiving more security services than what can be reimbursed under the existing budget. While security demands are considerable, they are competing directly against funding required for other court priorities. The need, as reflected in the request, is substantially greater than the amount requested. However, the total amount required is such that it will have to be addressed incrementally, if other court needs are to be addressed.

It should also be noted that the Ad Hoc Security Committee's recommendation that funding for juvenile court security be taken over as a state responsibility has not been addressed. Unsuccessful efforts to have this issue studied by the legislature should be renewed.

**Human Resource Automation Connection:** The courts have received notice that the present automated personnel system provided through the Department of Finance will no longer be available as of July 1, 1999. A new replacement system has been developed for State Human Resources (HR Enterprize) to which the courts will need to connect. We have been informed that the annual cost for these services is \$59,745. Both the Legislative and Judicial Branch will have to begin using this system, or develop or purchase their own independent systems, which is not a viable option because of cost. In that the need and fee for this service is non discretionary, the funding for this service should be outside of the 2%.

**Child Welfare Mediation:** The Child Welfare Mediation Program operating in the 2,3,4, and 7th Districts is a pilot program initiated through the federally funded Court Improvement Project. Funds to support this program will expire as of January 1, 2000. A request has been made to request state funding for this program for FY2000. Unfortunately, not enough time has passed to fully assess the effectiveness and impact of this program. Early indications are that mediation of child welfare cases hold considerable promise, both as a better forum for the resolution of these cases and as a program which could reduce substantially the amount of court time required for these cases.

It is recommended that the Legislature be asked to provide one time funding to allow the courts to continue this pilot program for the last six months of FY2000. This conservative approach would provide time for additional experience to be gained and an evaluation to be completed. If the early indicators hold true, The Judicial Council can consider at next year's planning meeting whether to seek a building block for FY 2001. The one time cost for continuing this program for the last six months of FY 2000 is \$80,300.

#### **Alternative Funding Recommendations:**

There are three funding requests which have been advanced which may be funded by a means other than the General Fund and, therefore, do not compete with funding priorities under the 2% guideline. The following are recommended:

– Juvenile Drug Court

Continue Byrne Grant

-	Pro-Tem Juvenile Court Judge (2)	\$26,690 (grant match)
-	Juvenile Automation	\$147,680 (grant match)

**Juvenile Drug Court:** The 3rd Juvenile Court has operated a Juvenile Drug Court since October of 1995 through a series of federal grants. The present Byrne Grant will expire in June of 1999. The request by the Board was for this program to be funded through a general fund appropriation. In that this is a "specialty court" and the Judicial Council has determined that it will examine and evaluate all speciality courts in August of 1999, it is premature to advance a request for on-going general funds.

As an alternative, it is recommended that the 3rd Juvenile Drug Court continue to rely on funding through the Byrne Grant. This program is eligible and prioritized for continued Byrne Grant funding through June of 2001. Relying on continued use of Byrne Grant funding will provide additional time to evaluate the process.

**Pro Tem Juvenile Judges:** The Juvenile Court Board also requested funding for new judgeships in the 1st District and 7th District, with a priority on the 7th District Juvenile Court. As the figures which will be presented to the Judicial Council at the Planning Session will show, referrals in the Juvenile Court are down for the second year in a row. With the addition of two new Juvenile Court judges in the last three years, the average caseload per judge has also been reduced. Using the Juvenile Court weighted caseload formula, it would appear state-wide the number of Juvenile Court judges state-wide is reasonably well matched to the caseload. The issue is that the caseload is not evenly distributed among districts and some districts are carrying a considerably heavier caseload. That is the case with the 1st and 7th districts.

While the caseload per judge is disproportionately high in the 1<sup>st</sup> and 7<sup>th</sup> Districts, both Districts experienced a drop in referrals in FY 1998, 15.53% and 11.53% respectively. In the case of the 7<sup>th</sup> District, this follows a decrease in referrals of 8.91% in FY1997. In the 1<sup>st</sup> and 7<sup>th</sup> Districts the particularly time-consuming dependency, abuse, and neglect cases dropped substantially this past year, 30.91% and 15.57% respectively. State-wide it is projected that the Juvenile Court referrals will continue to drop over the next year and then level out through 2002. We can not be as certain as to whether the referrals in the 1<sup>st</sup> and 7<sup>th</sup> Districts will follow this trend.

The State of Utah has recently been awarded \$2.8 million in the form of a Federal Juvenile Accountability Block Grant. This block grant specifically provides that these funds can be used to employ juvenile courts judges. There are obvious problems with relying on grant funds to employ a judge. However, an option which I would recommend the Judicial Council

consider is the use of these funds to employ time limited pro-tem juvenile court judges. The model which this would follow would be the use of pro-tem judges for the permanency project several years ago. This approach has the benefit of buying additional time to determine juvenile filing trends before committing to permanent resources.

Two full time pro-tem judges would cost \$265,958 for one year. The match requirement of 10% would require a one time appropriation of \$26,690. The juvenile court weighted caseload formula suggests that approximately a two-thirds time judge is needed at the present time. If this is accurate, then an approach that might be taken would be to assign one pro-tem judge each to the 1st and 7th District as a primary assignment accounting for two-thirds of the available time, and making the other third of the time available to other districts for the purpose of reducing the size of pending dockets. Pro-tem judges are limited to a six month appointment which can be extended by the Supreme Court for an additional six month period. Taking advantage of the availability of these block grant funds will allow the Judicial Council to defer action on this request for one year in order to better assess whether permanent resources are required.

**Juvenile Court Automation:** Last year the Council approved the application for a Byrne grant to contract for a needs assessment for the re-engineering of the Juvenile Court automation system. That grant was awarded by the Commission on Criminal and Juvenile Justice and a report has been prepared and studied by the Standing Committee on Automation. The Standing Committee is recommending that this project move forward and is suggesting that the Juvenile Incentive Block Grant be used to begin what will be a multi-year effort to design and implement a new system. The guidelines for this grant provide that automation projects are eligible for funding. The amount requested by the Standing Committee is \$1,476,800.00 and this represents the amount that could realistically be spent within the two year limit set by the grant. Additional funding would have to be sought to complete the project. It is possible, though not a certainty, that additional federal funds may be available for the additional work required to complete this project.

It is recommended that the courts take advantage of this one time funding to begin this re-engineering effort, provided that funding is available through the grant. This effort should not compete with the on-going requirements to enhance and maintain CORIS. Existing staff should remain dedicated to CORIS.

It is recommended that the match requirement for both the pro-tem judges and the Juvenile Court automation project be sought as supplemental funding for the present fiscal year.

#### **Fiscal Note Funding:**

**Court of Appeals Mediation:** The Appellate Court Board has advanced only one request: on-going funding for the Court of Appeals Appellate Mediation Office. The Court of Appeals has established this office by temporarily diverting existing resources in order to assess the

effectiveness of mediation in the appellate court setting. The early results of the program has proven effective both in terms of settling cases and the satisfaction of litigants. A benefit of mediation in this context which should not be undersold, is reducing the considerable cost of appeal to litigants. The request of \$180,100 would allow the office separate funding and enable the Court to eliminate the diversion of existing resources for this purpose. Because there is enabling legislation accompanying this request, the form in which it has been advanced would have it competing for fiscal note funding.

It is recommended that legislation and an accompanying fiscal note be requested outside of the 2% guideline. It is also recommended that the amount requested also be reduced. While existing resources have been diverted for this program, this diversion occurred at a time in which the Court of Appeals was experiencing a reduction in case filings. The alternative funding approach recommended is to seek half of the cost (\$90,050) through the fiscal note accompanying the legislation. In this way, the Court is taking advantage of the reduced filings and funding half of the on-going cost through a continued diversion of a portion of existing resources.

**Supplementals:** Supplemental funding has been requested for a number of items, including Juror, Witness, and Interpreter Fees (\$375,000 for FY98 & FY99), and a lease adjustment (\$150,000 for FY99). Supplemental requests are one time in nature, and apply to current fiscal year. Accordingly, they do not impact the FY 2000 budget and do not count against the 2 % guideline. It is recommended that both of these supplementals be approved.

In addition to the above supplementals it is recommended that two other requests be advanced as supplementals rather than building blocks, in that they involve one time funding. The request of the Guardian ad Litem of \$86,900 for computer equipment involves a one time expenditure and it is recommended that this be pursued through a supplemental.

Set out above under **Alternative Funding Recommendations** is a recommendation that federal funds under the Juvenile Accountability Incentive Block Grant be sought for addressing select requests from the Juvenile Court Board and the Standing Committee on Automation. The grant match requirement for these two projects would be \$174,370. Because these are one time expenses, this match requirement could be addressed through supplemental funding.

## **Court Administrator's Review and Recommendations: 1999 Budget Plan**

The following material represents a continuation of the process begun last year when a separate set of recommendations prepared by the Court Administrator was presented to the Judicial Council as a supplement to the budget planning material prepared by boards, committees, and staff. Each budget request advanced for consideration has been prepared from the perspective of the individual court level, committee, or office and represents their specific needs and priorities. The Court Administrator's recommendations, attempt to examine these requests from a system-wide perspective within the realities imposed by budget preparation guidelines issued by the Governor's Office of Planning and Budget (GOPB).

This year the guidelines set a limit on requests for new general fund appropriation at 2% of the FY1998 ongoing state fund appropriation. Last year the limit was set at 2.5%. The FY 1998 budget for the courts is \$76,939,850 and 2% of that amount equals \$1,538,800. The recommendations set out below are based on the assumption that, as in years past, the Judicial Council will advance building blocks consistent with the spirit of the guidelines issues by the Governor's Office. The recommendations reflect the perspective of the Court Administrator's Office and are intended to serve as a point of departure for the Council's discussion and consideration of other perspectives. In preparing these recommendations I was assisted by a small committee of senior AOC staff and a trial court executive.

The recommendations set forth below attempt to address three objectives: 1) meet obligations which will come due based on prior decisions; 2) add resources where growth has placed the greatest demand; and, 3) provide opportunities for improving services through pilot initiatives funded by grants.

### **Exemption Proposal**

Like last year, this budget session is not just about decisions we need to make for the future, it is also about decisions made in the past. The obligations made by those decisions overshadow the items which can be considered proposals for new spending. The areas where funding needs to be provided to cover earlier obligations are: 1) leases, operations, and maintenance (O&M) - \$3,442,900; 2) juror, witness and interpreter fees - \$350,000 in supplemental funding; and 3) security - \$303,000. In each instance, I would recommend that the Council consider these items outside of the 2% limit and advance them as items which warrant an exemption from the guidelines. The Governor's budget analyst has already indicated that consideration is being given to allowing select exceptions.

The single largest exemption request concerns O&M and results from the cost requirements of six courthouses: Matheson, Ogden, Bountiful, Washington, Duchesne, and Davis. Over the course of five years each one of these facilities received the approval of the Council, Governor, and ultimately the Legislature. In each case, the total project costs were, including O&M, presented as part of the required funding. With the exception of escalations in the cost of maintenance services by DFCM, the requirements for 1999 are consistent with the projections made at the time the projects were approved. Last year approximately \$1 million was added to the base budget to address the O&M cost in 1998. The requirement in 1999 is extraordinary because of the number of facilities and the amount necessary for the Matheson Courthouse. Any O&M request for the year 2000 will be dramatically lower.

With regard to juror, witness, and interpreter fees, the issue remains how to address the longstanding need to bring the budget in line with actual expenditures. Under UCA 21-5-1.5(2) deficit spending is allowed for this program, and the failure to adequately fund the program has resulted in a practice of deficit spending subsequently addressed through supplemental funding. Funding provided for 1998 has reduced the size of the projected deficit, but there will still be a need for \$350,000 in supplemental funding.

The justification for seeking an exemption for security is based on the fact that we are already receiving \$303,000 in existing security services from county Sheriffs for which they are not reimbursed. This problem is akin to the jail reimbursement problem where the cost of providing the service does not equal the amount being appropriated by the Legislature for this purpose.

### **Base Budget**

Request	\$438,500
Recommendation	\$300,000

The budget guidelines provide that "agencies are to fund inflationary increases for 1999 within existing budgets. GOPB will not generally consider budget increases for inflation." Last year under similar guidelines the Council requested an inflationary adjustment to the base which was not granted. The combination of having to absorb the cost of inflation as well as the cost of adjustments to employee compensation plans, places this budget under increasing pressure at the expense of other operational needs. Having an adequately funded base budget is particularly critical to the courts because of the high percentage of our budget which is in fixed personnel and lease costs.

The \$438,500 requested represents a modest 0.5% increase. Even still, I recommend the requested amount be reduced to \$300,000 by cutting back the amounts which would be allocated to printing, postage, capital and other equipment. These cut backs can be accomplished by an increased reliance on electronic transmission of information which is presently being copied and

mailed. To accomplish these reductions, we are presently recruiting for a WEB Publisher who will occupy the position previously held by the Public Information Officer and perform both public information and technical WEB publishing activities. With this expertise we plan to evaluate our dissemination of in-house material and rely increasingly on electronic transmission of public information related material across the Internet, thereby reducing both printing and postage demands. In addition, capital and equipment requirements should be reduced as a result of the new furnishings and equipment provided in conjunction with the occupancy of the Matheson and Ogden Courthouses. Because of the number of employees housed in these two facilities, there should be a reduced demand for replacement furnishings and select equipment.

### **Board of Appellate Courts**

The Appellate Board did not make a request for 1999 expansion funding.

### **State Law Library**

Requested	\$67,200
Recommendation	no general fund appropriation

In order for the Law Library to establish and maintain the extended hours envisioned when it is relocated to the Matheson Courthouse, additional staffing will be required. Rather than seek expansion funding, it is recommended that alternative ways of providing the additional staff be pursued. Options include, employing additional staff, looking to flexible work hours for existing and any new staff as one means of extending library hours, and developing a library intern program with an area university.

A possible source of funding for an ongoing internship program might be the Law Library non-lapsing fund which presently has a balance of \$33,347, and is generating approximately \$10,000 per year. The use of the fund for this purpose would have to be approved by the State Law Library Board.

Increasing the staff through ongoing funds without a new appropriation would have to be accomplished by redirecting existing funds, such as monies spent for the maintenance of subscriptions. We are presently in the process of implementing extensive automated legal research capabilities for two hundred judges and staff under a contract with LEXIS. Over time, with increasing familiarity in the use of these tools, the opportunity should exist for reducing some of our reliance on printed legal materials. Presently, the amount budgeted for all courts and offices for the maintenance of subscriptions is approximately \$500,000. If a reduction target of 10% were set for the coming year, \$50,000 could be generated and redirected to employing additional library staff. Careful consideration would need to be given to what publications might be converted over to principally electronic access. However, it has been anticipated that the advent of comprehensive automated legal research for all those requiring such support, would

require such an examination of expenditures for publications. Rule 3-314(4) of the Code of Judicial Administration provides that as access to legal materials stored in electronic data bases is developed, "duplicative hard copy publications shall be discontinued."

### **Board of District Court Judges**

Requested	\$834,350
Recommendation	\$535,925

This year the Legislature authorized an additional District Court Judge for the Third District. Two judgeships had been requested. The District Court Board has recommended the Council again seek two additional judgeships, based on the disparity of the caseload being handled per judge in the Third District, as compared to all other districts. This disparity is borne out both by filings per judge, as well as the work that has been done on examining work under a weighted caseload. In prioritizing around the 2% guideline, it is recommended that one judgeship for the Third District be advanced as a building block.

In addition, it is recommended that five of the six law clerk positions requested by the Board be approved as part of the package. The addition of five law clerks will allow the two remaining districts without any law clerks (Districts Six and Eight) to have the benefit of that support. This would leave three additional positions to be allocated in consultation with the Board to those areas where law clerks would help ease the burden of heavy dockets.

The realities of the State's fiscal situation likely means that securing substantial increases in personnel over the next several years will be difficult at best. The courts will need to continue efforts to become increasingly more efficient in the processing of cases, if additional delay and case backlogs are to be averted. Set out under the section entitled **Additional Recommendations** is a proposal for a grant-funded delay reduction program aimed at further improving case processing through more pro-active case management practices.

An area not addressed by the Board is the need for additional deputy clerks. While I agree that, given existing budget limitations, new permanent deputy clerk positions should not be sought in the 1999 budget, a proposal is set out under **Additional Recommendations** for providing a reserve fund to be used for providing back up assistance to clerks offices in greatest need.

### **Board of Juvenile Court Judges**

Request	\$531,100
Recommendation	\$216,050

The Board of Juvenile Court Judges has limited its request to two areas: additional



judgeships and an appropriation to maintain the Juvenile Drug Court operating in the Third District. Because of the substantial funding provided this year for the implementation of the Juvenile Sentencing Guidelines, no additional probation or intake staff are being requested.

Under the 2% guidelines, it is recommended that expansion for the Juvenile Court be limited to a request for one additional judgeship for the Second District, which was given priority over the other request, the Seventh District, by the Board. In 1997 the Second District experienced an increase in referrals (3.25%), while the Seventh District had a decrease (8.9%). Even with the decrease, the Seventh District, because there is a single juvenile judge, is carrying a relatively high caseload. It is also faced with the dilemma that if another judge were added the district would have a relatively small case load per judge. Assuming that two judgeships are not sought, relief for the Seventh Juvenile Court will likely need to be pursued through additional assistance from the District Court bench which has a relatively low caseload per judge compared to other districts, or possibly assistance for the Sixth District which experienced a drop in its referrals of nearly 15% over 1997.

An appropriation to fund the Juvenile Drug Court is not recommended at this time. Currently this program is being funded through a federal Byrne grant. It is in its first year of funding and the prospect for an additional two years of grant funding should be good. It is recommended that the program remain grant funded so long as those funds remain available and the program eligible.

Like the District Board, the Juvenile Board did not request any additional deputy clerk positions. It remains to be determined what impact the addition of over 60 probation officers will have on the clerks' offices. The recommendation for a reserve fund for clerk assistance set out under **Additional Recommendations** is intended to be available for both the Juvenile and District Court.

#### **Board of Justice Court Judges**

Request	\$33,900
Recommendation	no general fund appropriation

Rather than seek an appropriation for the Legal Institute Project, which has twice been advanced without receiving funding by the Legislature, it is recommended that this project be undertaken initially without state funding. The State Justice Institute has available funding for "replication projects" and our proposed Legal Institute should qualify for up to a \$30,000 grant. The balance of the cost of initiating this project should be borne out of funds presently available.

The Justice Courts have advanced this request as their only request for three years without success. Ironically, the relatively small cost may be contributing to the difficulty of giving it enough visibility to receive prioritization when available funding is being considered in

the appropriations process. In this instance, we may be more effective in getting legislative attention if we are able to establish the Institute and then be able to speak of its value from first hand experience. It is recommended that we proceed to seek SJI funding in their next grant cycle and return to the Legislature at a future date for an appropriation after we are able to demonstrate the value.

#### **Standing Committee on Information, Automation, and Records**

Request	\$400,000
Recommendation	\$245,450

This year in the appropriations process, the base budget for automation was reduced by \$462,100. The appropriations subcommittee was required to reach a target for reduced spending for the committee generally, and the court's automation budget was one of the few areas available to them which would not result in eliminating positions. Despite the need to reduce the budget, our automation projects appeared to enjoy considerable support and \$300,000 in a one-time supplemental funding was provided.

Relying on the balance of the automation budget and the \$300,000 supplemental, we have made the implementation of CORIS in remaining districts the single highest budget priority. An accelerated schedule has been adopted which will result in CORIS being operational in all districts by the end of July 1998. Accomplishing this within the limits imposed under the budget reduction has been at the expense of other very important automation projects, including: imaging, video trial, video arraignment, video conferencing, equipment replacement, and needed software upgrades. All of these efforts are aimed at improving efficiency, system performance, and public access. These are not new projects. These are programs in which the development work has been completed, or the hardware and software are available, and we simply lack the funding to implement that which we have already made a substantial investment. It is recommended that we seek a partial restoration of last year's budget reduction in the amount of \$245,450, and that the funding be applied to moving as many of these programs forward as possible.

While not included in the Standing Committee's request, a proposal for seeking grant funding to developing the next generation juvenile automation system is set out under the **Additional Recommendations** section.

## Security

Requested	\$725,000
Recommended	\$303,000 (included in <b>Exemption Proposal</b> )

Set out earlier under **Exemption Proposal** was a recommendation that \$303,000 for security be requested. The \$303,000 is that portion of the requested \$725,000 that would be used to pay the expenses of security services already being provided. The balance of the \$725,000 would go to meeting additional security requirements which were recommended by the Ad Hoc Security Committee. The additional security is clearly needed and justified. The difficulty is in being able to advance this legitimate need within the 2% guideline. The Council has yet to debate the report of the Ad hoc committee and set a policy direction for enhancing and funding security. Absent that policy decision, only a recommendation for seeking funding to compensate for services presently provided is being made.

Included in the Ad Hoc Committee's report is a recommendation that the state provide funding for Juvenile Court security. With limitations of new funding it is not likely that such funding (\$1,440,000) could be secured through the courts in the coming year. There is also the threshold question as to whether funding through the court's budget is the best strategy for securing and maintaining this security need. Providing Juvenile Court security would involve a transfer from local to state responsibility, which is a larger policy question than a court budget issue. A possible course would be to draft intent language setting out the problem and recommending that the question of state funding and appropriate revenue source be studied by Legislative Fiscal Research or the Commission on Criminal and Juvenile Justice (CCJJ) and reported back to the Legislature in the following year.

## Standing Committee on Education

Requested	\$84,425
Recommended	\$33,275

It is recommended that the expansion request be focused on the demands imposed by the addition of the 60 new probation officer positions added as a result of funding for the Juvenile Sentencing Guidelines. The sentencing guideline funds failed to take into consideration the initial and ongoing training requirements for the new probation officers.

The requirement for adequate training of new probation officers cannot be avoided. There is an established training program for both new and experienced employees that is tailored to their specific position. The initial training requirements have had to be absorbed, however, it is recommended that we seek an appropriation of the \$33,275 needed to sustain this new training demand. Rather than attempt to secure additional funding recommended by the Standing Committee (\$84,425), which would be used to cover the training cost of employees added over

the past several years, a focus on just the juvenile probation positions is likely to be more easily understood and favorably considered.

### **Guardian ad Litem**

Requested	\$330,500
Recommendation	\$108,100

This year the Council successfully advanced several funding mechanisms for the Guardian ad Litem program. Approval was granted for a general fund increase (\$150,000), \$50,000 from the Children's Legal Defense Fund, \$210,000 through granting the Guardian ad Litem program a percentage of the criminal surcharge, and up to \$20,000 for the CASA program as a result of voluntary juror pay assignment to CASA. When these items were advanced at the planning session last year, one of the stated assumptions was "general fund increases would need to be incremental." The new funding received this year has been directed at the area of most critical need, resources for Wasatch front counties.

The request of \$330,500 is aimed at providing needed support in the more rural districts which did not receive any additional assistance from this year's new funding. Like the discussion last year, needed general fund increases will have to be incremental, given the limitations of the guidelines and the competing demands of other programs. A building block of \$108,100 for 1999 is recommended. Funding at this level will permit the employment of two half-time attorneys, one for the Fifth and one for the Seventh District, a quarter-time attorney for the Sixth District, and two part time CASA coordinators for the Seventh District. Included in the request at the \$330,000 level, were additional CASA coordinators. It is recommended that federal VOCA funds be sought to expand CASA positions beyond those that could be provided within the recommended \$108,100. A number of states are now funding CASA positions through VOCA funds, which can be multi-year.

### **Administration (AOC)**

Request:	\$46,200
Recommendation	no general fund appropriation

The only request from staff of the Administrative Office of the Courts was for an additional position for the newly established Court Services Division, created through a reorganization of existing staff. By all indications the new Division has been very well received, however, the immediate focus remains the implementation of CORIS. The fully expanded role of direct support of all aspects of the operation of the clerks office has yet to be realized. The need to be addressed by the position requested is justified, but rather than seeking an additional position, further internal reorganization should be used to address this need. At the completion

of the CORIS implementation, the position now dedicated to juvenile clerks should become the fifth field position and all of the court service specialists should be trained to cover the juvenile clerk operation within their respective regions.

### **Supplementals and Other Requests**

It is recommended that all of the requests for supplemental and general fund restricted be approved. Like the security request, a recommendation is not made with respect to the request for adjustments to the Senior Judge retirement fund in that the Council has yet to address the policy issue.

### **Additional Recommendations**

The following recommendations were not advanced by any Board, Committee, or office. I offer them to address system needs which I believe were not identified by others, as in the case of a reserve fund for temporary clerk assistance, or as opportunities to improve services through selective programs which could be initiated through grant funding, as in the case of juvenile automation planning, delay reduction, and the community dispute settlement center proposals.

### **Reserve Fund for Assistance to Clerks Offices**

Recommendation	\$100,000
----------------	-----------

There was no request for new additional deputy clerks from either the District Court or Juvenile Court Boards. I agree that new positions should not be given a priority under the limitations of the budget guidelines. That is not to say, however, that there is not a need to provide assistance in clerks offices. These offices have absorbed considerable additional work in recent years, and are being asked to institute new systems, such as CORIS, and expanded programs, such as 60 probation officers. Rather than providing new positions, I recommend the establishment of a reserve fund that can be used for providing supplemental assistance when an office has fallen behind, a new system is being implemented, or there is a need to cover for a long term absence. The fund would be managed by Holly M. Bullen, Assistant Court Administrator, and would be used only for addressing temporary needs, with the goal of preventing offices from falling behind because of circumstances beyond their immediate control. The use and management of such a fund should be assessed after one year. It should not be regarded as a substitute for full time positions when the work demands additional permanent position.

## **Juvenile Automation Re-engineering**

### **Recommendation**

### **Grant Funding**

The present juvenile automation system has served the Juvenile Courts extremely well. The automation needs of the future, however, need to be anticipated and the existing system has inherent limitations and is becoming increasingly difficult to maintain. The Standing Committee on Information, Automation, and Records is initiating a process to begin planning for the future needs. To advance this process, it is recommended that grant funding be pursued in order to contract for a comprehensive requirements analysis and program plan. Byrne funding administered through CCJJ may be available for this purpose. At the present time we are in the process of evaluating the movement of the juvenile system off the state main frame computer and migrating it to the courts own network. If this proves viable, there will be a considerable reduction in the amount paid the state in system charges, providing the potential for actually developing a new system from savings resulting from the transfer.

## **Delay Reduction and Community Dispute Settlement Center Proposals**

### **Recommendation**

### **Grant Funding**

Attached to this document as Proposals A and B are projects for which grant funding might be requested. The budget requests submitted, by necessity, in large measure focus on maintenance. There is relatively little presented which challenges the way we do business or provides enhanced services to the public. The attached proposals are intended to stimulate such a challenge.

# COLLECTION OF ACCOUNTS RECEIVABLE

1998 GENERAL SESSION

STATE OF UTAH

AN ACT RELATING TO THE JUDICIARY; ESTABLISHING THE PROCESS FOR THE COLLECTION OF ACCOUNTS RECEIVABLE AS A RESULT OF CRIMINAL PROSECUTION.

This act affects sections of the Utah Code Annotated 1953 as follows:

**AMENDS:**

63A-8-101

63A-8-201

63A-8-301

63A-8-302

76-3-201.1

**REPEALS AND REENACTS:**

77-18-6

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

**63A-8-101. Definitions.**

As used in this chapter:

(1)(a) "Accounts receivable" or "receivables" means any amount due the state from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, restitution to a victim, costs, claims, and damages.

(2) "Administrative offset" means:

(a) a reduction of an individual's tax refund or other payments due to the individual to reduce or eliminate accounts receivable that the individual owes to the state; and

(b) a reduction of an entity's tax refund or other payments due to the entity to reduce or eliminate accounts receivable that the entity owes to the state.

(3) "Board" means the advisory board created by this chapter.

(4) "Entity" means an individual or a corporation, partnership, or other organization that pays taxes to or does business with the state.

(5) "Office" means the Office of State Debt Collection established by this chapter.

(6) "Past due" means any accounts receivable that the state has not received by the payment due date.

(7)(a) "State agency" includes any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of Utah state government, including

the legislative and judicial branches of state government.

(b) "State agency" does not include any institution of higher education.

(8) "Writing-off" means the removal of an accounts receivable from an agency's accounts receivable records but does not necessarily eliminate further collection efforts.

**63A-8-201. Office of State Debt Collection created - Duties.**

(1) The state and each state agency shall comply with the requirements of this chapter and any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Department of Administrative Services.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) develop policies, procedures, and guidelines for accounting, reporting, and collecting monies owed to the state;

(e) provide information, training, and technical assistance to all state agencies on various collection-related topics;

(f) write an inclusive receivables management and collection manual for use by all state agencies;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(j) identify those state agencies that are not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between state agencies to maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between state agencies;

(m) establish procedures for writing-off accounts receivable for accounting and collection purposes; and

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or its designee.



(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting its receivables;

(d) contract with private agencies or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63-2-206;

(g) by following the procedures and requirements of Section 63-38-3.2 establish:

(i) a fee to cover the administrative costs of collection;

(ii) a ~~[late]~~ past due penalty fee that may not be more than 10% of the account receivable;

(iii) an interest charge that is not more than ~~[2% above]~~ the ~~[prime]~~ post judgment interest rate as established by Section 15-1-4;

(iv) fees to collect accounts receivable for higher education; and

(h) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards.

(5)(a) ~~The office [may institute collection efforts on criminal fines, restitution, and other court ordered debts] is responsible for collecting an account receivable ordered by the district court as a result of prosecution for a criminal offense which has been transferred to the office under Subsection 76-3-201.1(4) or Subsection 76-3-201.1(7).~~

(b) The Department of Corrections is responsible for collecting an account receivable ordered by the district court as a result of prosecution for a criminal offense for the term established under Subsection 78-18-1(9).

(c) If the Department of Corrections does not have responsibility under Section 77-18-1 for collecting an account receivable or if the term during which the Department of Corrections is responsible for collection has expired, the district court is responsible for collecting the account receivable.

(d) In the juvenile court, monies collected by the court from past due accounts receivable may be used to offset system, administrative, legal and other costs of collection. The balance of money collected above the costs of collection shall be allocated on a prorated basis to the

various revenue types that generated the account receivable.

(6) The office shall require state agencies to:

(a) transfer collection responsibilities to the office or its designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or, with the consent of the board, develop systems that are adequate to properly account for and report their receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in their management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of its receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(i) The office shall use the information provided by the agencies and any additional information from the office's records to compile a one-page summary report of each agency.

(ii) The summary shall include:

(A) the type of revenue that is owed to the agency;

(B) any attempted collection activity; and

(C) any costs incurred in the collection process.

(iii) The office shall annually provide copies of each agency's summary to the governor and to the Legislature.

#### **63A-8-301. State Debt Collection Fund.**

(1) There is created an internal service fund entitled the "State Debt Collection Fund."

(2) The fund shall be governed by the provisions for internal service funds in Section 63-38-3.5.

(3) The fund consists of:

(a) all amounts appropriated to the fund under this chapter; and

(b) fees ~~[collected]~~ and interest established by the office under ~~[authority of this chapter]~~ Subsection 63A-8-201(4) and collected by the office or the state agency.

(4) Monies in this fund shall be used to:

(a) provide ~~[grants]~~ allocations to other state agencies for specific collection enhancement projects; and

(b) offset systems, administrative, legal, and other collection costs of the office or the state

agency.

(5)(a) The fund may collect interest.

(b) All interest earned from the fund shall be deposited in the General Fund.

#### **63A-8-302. Allocation of funds.**

(1) Except as provided in Subsection (2), the ~~[balance of]~~ monies collected by the office less the office's fees shall be allocated on a prorated basis to the various revenue types that generated the accounts receivable.

(2) Notwithstanding the requirements of Subsection (1),

(a) federal cost allocation requirements for specific accounts receivable related to programs that are supported by federal funds take precedence over other cost allocation methods provided in this section and

(b) interest and fees collected on past due accounts receivable shall be used as provided in Subsection 63A-8-301(4).

#### **76-3-201.1. Nonpayment of fine or restitution as contempt - Imprisonment - Relief where default not contempt - Collection of default.**

(1)(a) An account receivable, as defined in Section 63A-8-101, ordered by the court as a result of prosecution for a criminal offense may be collected by any means authorized by law for the collection of a civil judgment.

(b) The court may permit an offender to pay an account receivable in installments. If the account receivable is paid in installments, the court shall calculate and include as part of the total amount due the interest and fees established by the Office of State Debt Collection under Section 63A-8-201(4).

(c) Upon default in the payment of an account receivable ordered by the court as a result of prosecution for a criminal offense or upon default in the payment of any installment thereof, the account receivable may be collected as provided by this Section, Subsection 77-18-1(9), Subsection 77-18-1(12) and by any means authorized by law for the collection of a civil judgment.

[1] (2) When a ~~[defendant sentenced to pay a fine or to make restitution]~~ person defaults in the payment of an account receivable ordered by the court as a result of prosecution for a criminal offense or any installment thereof, the court on motion of the prosecution, victim, or upon its own motion may ~~[require him]~~ order the defendant to appear and show cause why ~~[his]~~ the default should not be treated as contempt of court~~[- and may issue a show cause citation or a warrant of arrest for his appearance]~~. If the court determines an order to appear and show cause will not secure the appearance of the defendant, the court may issue a warrant of arrest.

[2] (3) Unless the defendant shows that ~~[his]~~ the default was not attributable to an

intentional refusal to obey the order of the court or to a failure ~~[on his part]~~ to make a good faith effort to make the payment, the court may find that ~~[his]~~ the default constitutes contempt ~~[and]~~. Upon a finding of contempt, the court may order ~~[him]~~ the defendant committed until the ~~[fine or the restitution]~~ account receivable, or a specified part of it, is paid.

(4) If it appears to the satisfaction of the court that the default is not contempt, the court may enter an order for any of the following or any combination of the following:

(a) require the defendant to pay the account receivable or a specified part of it by a date certain;

(b) restructure the payment schedule;

(c) restructure the installment amount;

(d) except as provided in Section 77-18-8, execute the original sentence of imprisonment;

(e) except as limited by Subsection (5), convert the account receivable or any part of it to community service;

(f) except as limited by Subsection (5), reduce or revoke the unpaid amount of the account receivable; or

(g) record the unpaid balance of the account receivable as a civil judgment and transfer to the Office of State Debt Collection responsibility for collecting the judgment.

(5) The order of the court under this Section shall not modify the amount of the judgment of restitution.

(6) Whether or not a default constitutes contempt, the court may add to the amount owed the interest and fees established under Subsection 63A-8-201(4).

(7)(a) If an account receivable is past due, the court may, without a motion or hearing, record the unpaid balance of the account receivable as a civil judgment and transfer to the Office of State Debt Collection responsibility for collecting the account receivable.

(b) If an account receivable is more than 90 days past due, the court shall, without a motion or hearing, record the unpaid balance of the account receivable as a civil judgment and transfer to the Office of State Debt Collection responsibility for collecting the account receivable.

~~[(3)]~~ (8) When a fine, forfeiture, surcharge, costs permitted by statute, fees or an order of restitution is imposed on a corporation or unincorporated association, the person authorized to make disbursement from the assets of the corporation or association shall pay the ~~[fine or make the restitution]~~ obligation from those assets. ~~[His]~~ The failure to do so may be held to be contempt ~~[unless he makes the showing required in]~~ under Subsection (2).

~~[(4) The term of imprisonment for contempt for nonpayment of fines or failure to make restitution shall be set forth in the commitment order.]~~

~~[(5) If it appears to the satisfaction of the court that the default in the payment of a fine or~~

~~restitution is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the payment or of each installment, or revoking the fine or order of restitution or the unpaid portion in whole or in part.]~~

~~[(6)(a) A default in the payment of a fine or costs or failure to make restitution or any installment may be collected by any means authorized by law for the enforcement of a judgment.~~

~~[(b)] (9) The prosecuting attorney may collect restitution in behalf of a victim.~~

~~(c) The levy of execution for the collection of a fine or restitution does not discharge a defendant committed to imprisonment for contempt until the amount of the fine or restitution has actually been collected.]~~

#### **77-18-6. Judgment to pay fine or restitution constitutes a lien. (Repeal & Reenact)**

(1) A judgment of conviction of a crime which orders the payment of a fine, forfeiture, surcharge, cost permitted by statute or fee shall be recorded by the clerk of the court in the registry of civil judgments immediately prior to transferring the responsibility to collect the past due account receivable to the Office of State Debt Collection. The Office of State Debt Collection shall be the judgment creditor for money owed to the state of Utah and its agencies or political subdivisions. The Office of State Debt Collection shall allocate monies collected in accordance with Section 63-63a-2, Section 63A-8-302 and Section 78-3-14.5. The Office of State Debt Collection is responsible for timely renewal of the judgment under Section 78-22-1.

(2) A judgment of conviction of a crime which orders the payment of restitution to a victim under Section 76-3-201 shall be recorded promptly by the clerk of the court in the registry of civil judgments. The victim or the estate of the victim shall be the judgment creditor for money owed on the judgment of restitution. The Department of Corrections shall collect the judgment on behalf of the victim as provided in Subsection 77-18-1(9). The court and the Office of State Debt Collection shall collect the judgment on behalf of the victim as provided in Subsection 63A-8-201(5). The victim may collect the judgment. The victim is responsible for timely renewal of the judgment under Section 78-22-1.

(3) When a fine, forfeiture, surcharge, cost, fee or restitution is recorded in the registry of civil judgments, the judgment:

(a) constitutes a lien;

(b) has the same effect and is subject to the same rules as a judgment for money in a civil action; and

(c) may be collected by any means authorized by law for the collection of a civil judgment.

# JUDICIARY AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

AN ACT RELATING TO THE JUDICIARY; REQUIRING THE PUBLICATION OF JUDICIAL PERFORMANCE EVALUATION SURVEY SCORES IN THE VOTER INFORMATION PAMPHLET; REMOVING THE TWO YEAR TERM OF OFFICE OF THE PRESIDING JUDGE OF A TRIAL COURT OF RECORD; RECOGNIZING THE REPORTS OF THE CITIZEN FOSTER CARE REVIEW BOARD AS A COMMUNICATION PERMITTED BY LAW; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of the Utah Code Annotated 1953 as follows:

AMENDS:

12-1-8

20A-7-702

21-1-5

63-63a-5

77-27-13

77-32-1.1

78-3-29

78-3a-115

78-3a-201

78-3a-313

78-3g-103

78-7-25

78-28-1

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

## **12-1-8. Designating and limiting activities as to assignments.**

Any collector having complied with the provisions of this act, may receive accounts, bills or other indebtedness, take assignments thereof for the purpose of collections, and at the direction of the assignor bring suit thereon as assignee, provided however, that such accounts shall be within the statute of limitations as provided by law, and that in case of suit all legal processes and pleadings and court representations shall be prepared and conducted by a duly licensed attorney[, and a copy of summons and complaint, in all cases, shall be served on defendants, by a duly qualified process server of the court in which such suit is filed].

## **20A-7-702. Voter information pamphlet - Form - Contents - Distribution.**

(1) The lieutenant governor shall ensure that all information submitted for publication in the voter information pamphlet is:

- (a) printed and bound in a single pamphlet;
- (b) printed in clear readable type, no less than ten-point, except that the text of any measure may be set forth in eight-point type; and

- (c) printed on a quality and weight of paper that best serves the voters.

(2) The voter information pamphlet shall contain the following items in this order:

- (a) a cover title page;
- (b) an introduction to the pamphlet by the lieutenant governor;
- (c) a table of contents;
- (d) a list of all candidates for constitutional offices;
- (e) a list of candidates for each legislative district;
- (f) a 100-word statement of qualifications for each candidate for the office of governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate to the lieutenant governor's office before July 15 at 5 p.m.;
- (g) information pertaining to all measures to be submitted to the voters, beginning a new page for each measure and containing, in the following order for each measure:
  - (i) a copy of the number and ballot title of the measure;
  - (ii) the final vote cast by the Legislature on the measure if it is a measure submitted by the Legislature or by referendum;
  - (iii) the impartial analysis of the measure prepared by the Office of Legislative Research and General Counsel;
  - (iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the measure, the arguments against the measure, and the rebuttal to the arguments against the measure, with the name and title of the authors at the end of each argument or rebuttal;
  - (v) for each constitutional amendment, a complete copy of the text of the constitutional amendment, with all new language underlined, and all deleted language placed within brackets; and
  - (vi) for each initiative qualified for the ballot, a copy of the measure as certified by the lieutenant governor;
- (h) a description provided by the Judicial Council of the selection and retention process for judges of courts of record, including, in the following order:
  - (i) a description of the judicial selection process;
  - (ii) a description of the judicial performance evaluation process;
  - (iii) a description of the judicial retention election process;
  - (iv) a list of the criteria and minimum standards of judicial performance evaluation;

(v) the names of the judges standing for retention election; and

(vi) for each judge:

(A) the counties in which the judge is subject to retention election;

(B) a short biography of professional qualifications and a recent photograph;

(C) for each standard of performance, a statement identifying whether or not the judge met the standard and, if not, the manner in which the judge failed to meet the standard;

(D) a statement identifying the number of public sanctions ordered by the Supreme Court upon review of the order of the Judicial Conduct Commission that the judge has received during his current term;

~~[(E) if the judge received two or more private sanctions during the two years immediately preceding certification, a statement identifying the number of private sanctions received;]~~ and

(F) a statement identifying whether or not the judge was certified by the Judicial Council;

(vii)(A) except as provided in Subsection (vi)(B), for each judge, in graphic format, the favorable response rating for each attorney, jury, and other survey question used by the Judicial Council for certification of judges~~[, displayed in 5% increments]~~ and identifying the minimum standards of performance for each question;

(B) notwithstanding Subsection (vi)(A), if the sample size for the survey for a particular judge is too small to provide statistically reliable information ~~[in 5% increments]~~, the survey results for that judge shall be reported as being above or below 70% and a statement by the surveyor explaining why the survey is statistically unreliable shall also be included;

(i) an explanation of ballot marking procedures prepared by the Office of Legislative Research and General Counsel, indicating the ballot marking procedure used by each county and explaining how to mark the ballot for each procedure;

(j) voter registration information;

(k) a list of all county clerks' offices and phone numbers;

(l) an index of subjects in alphabetical order; and

(m) on the back cover page, a printed copy of the following statement signed by the lieutenant governor:

"I, \_\_\_\_\_ (print name), Lieutenant Governor of Utah, certify that the measures contained in this pamphlet will be submitted to the voters of Utah at the election to be held throughout the state on \_\_\_\_\_ (date of election), and that this pamphlet is complete and correct according to law.

SEAL

Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year)

(signed) \_\_\_\_\_



Lieutenant Governor”

(3) The lieutenant governor shall:

(a) ensure that one copy of the voter information pamphlet is placed in one issue of every newspaper of general circulation in the state not more than 40 nor less than 15 days before the day fixed by law for the election;

(b) ensure that a sufficient number of printed voter information pamphlets are available for distribution as required by this section;

(c) provide voter information pamphlets to each county clerk for free distribution upon request and for placement at polling places; and

(d) ensure that the distribution of the voter information pamphlets is completed 15 days before the election.

**21-1-5. Civil fees of the courts of record - Courts complex design.**

(1)(a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$120.

(b) The fee for filing a complaint or petition is:

(i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$80 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$120 if the claim for damages or amount in interpleader is \$10,000 or more; and

(iv) \$80 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

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

(i) \$37 if the claim for damages or amount in interpleader exclusive of courts costs, interest, and attorney fees is \$2,000 or less; and

(ii) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$60 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$90 if the original petition is filed under Subsection (1)(a) or when the claim for relief is \$10,000 or more; and

(iv) \$60 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

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

(i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less; and

(ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (b) based on the amount deposited.

(g) The fee for filing a petition for trial de novo of an adjudication of the justice court or of the small claims department is \$70.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$190.

(i)(i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a petition for expungement is \$50.

(ii) There is no fee for a petition filed under Subsection 77-18-10(2).

(j)(i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to the Judges' Retirement Trust Fund, as provided in Title 49, Chapter 6, Judges' Retirement Act.

(ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 63-63a-8.

(iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section 78-31b-9.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$25.

(l) The fee for filing probate or child custody documents from another state is \$25.

(m)(i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$40.

(n) The fee for filing a judgment by confession without action under Section 78-22-3 is \$25.

(o) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is \$25.

(p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$30.

(q) The fee for filing any accounting required by law is:

(i) \$10 for an estate valued at \$50,000 or less;

(ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$150 for an estate valued at more than \$168,000.

(r) The fee for filing a demand for a civil jury is \$50.

(s) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rule of Civil Procedure 26 is \$25.

(t) The fee for filing documents that require judicial approval but are not part of an action before the court is \$25.

(u) The fee for a petition to open a sealed record is \$25.

(v) The fee for a writ of replevin, attachment, execution, or garnishment is \$20 in addition to any fee for a complaint or petition.

(w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(x) The fee for a certificate issued under Section 26-2-25 is \$2.

(y) The fee for a certified copy of a document is \$2 per document plus 50 cents per page.

(z) The fee for an exemplified copy of a document is \$4 per document plus 50 cents per page.

(aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63, Chapter 2, Government Records Access and Management Act. Fees under this subsection shall be credited to the court as a reimbursement of expenditures.

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

(cc) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(dd) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court

shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this subsection shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2)(a)(i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii)(A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital Projects Fund under Subsection 21-1-5(2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this subsection.

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this subsection.

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

(d)(i) From May 1, 1995 [*March 17, 1994*] until June 30, 1998, the administrator of the courts shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the administrator of the courts shall transfer [~~\$2~~] \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court

of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture paid.

(3)(a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate monies from the restricted account to the administrator of the courts for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this subsection; and

(ii) to cover operations and maintenance costs on the court complex.

**63-63a-5. Substance Abuse Prevention Account established - Funding - Uses.**

(1) There is created a restricted account within the General Fund known as the Substance Abuse Prevention Account.

(2)(a) The Division of Finance shall allocate to the Substance Abuse Prevention Account from the collected surcharge established in Section 63-63a-1:

(i) 2.5% for the juvenile court, but not to exceed the amount appropriated by the Legislature; and

(ii) 2.5% for the State Office of Education, but not to exceed the amount appropriated by the Legislature.

(b) The juvenile court shall use the allocation to pay for community service programs required by Subsection 78-3a-118(2)(~~+~~) (m).

(c) The State Office of Education shall use the allocation in public school programs for:

(i) substance abuse prevention and education;

(ii) substance abuse prevention training for teachers and administrators; and

(iii) district and school programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

**77-27-13. Board of Pardons and Parole - Duties of the judiciary, the Department of Corrections, and law enforcement - Removal of material from files.**

(1) The chief executive officer and employees of each penal or correctional institution shall cooperate fully with the board, permit board members free access to offenders, and furnish the board with pertinent information regarding an offender's physical, mental, and social history and his institutional record of behavior, discipline, work, efforts of self-improvement, and attitude toward society.

(2) The Department of Corrections shall furnish pertinent information it has and shall

provide a copy of the pre-sentence report and any other investigative reports to the board. In all cases where a pre-sentence report has not been completed, the department shall make a post-sentence report and shall provide a copy of it to the board as soon as possible. The department shall provide the board, upon request, any additional investigations or information needed by the board to reach a decision or conduct a hearing.

(3) The department shall make its facilities available to the board to carry out its functions.

(4) Law enforcement officials responsible for the offender's arrest, conviction, and sentence shall furnish all pertinent data requested by the board.

(5)(a) In all cases where an indeterminate sentence is imposed, the judge imposing the sentence ~~[shall]~~ may within 30 days from the date of the sentence, mail to the chief executive of the board a statement in writing setting out the term for which, in his opinion, the offender sentenced should be imprisoned, and any information he may have regarding the character of the offender or any mitigating or aggravating circumstances connected with the offense for which the offender has been convicted. In addition, the prosecutor shall in all cases, within 30 days from the date of sentence, forward in writing to the chief executive of the board a full and complete description of the crime, a written record of any plea bargain entered into, a statement of the mitigating or aggravating circumstances or both, all investigative reports, a victim impact statement referring to physical, mental, or economic loss suffered, and any other information the prosecutor believes will be relevant to the board. These statements shall be preserved in the files of the board.

(b) Notwithstanding Subsection (5)(a), the board may remove from its files any:

(i) statement that it is not going to rely on in its decisionmaking process;

(ii) information found to be incorrect by a court, the Board of Pardons and Parole, or administrative agency; or

(iii) duplicative materials.

(6) The chief executive officer of any penal or correctional institution shall permit offenders to send mail to the board without censorship.

#### **77-32-1.1. Procedure for determination of indigency -- Standards.**

(1) A determination of indigency or continuing indigency of any defendant may be made by the court at any stage of the proceedings.

(2)(a) Any defendant claiming indigency who is charged with a crime the penalty of which is a class A misdemeanor or felony shall file with the court a fully complete~~[, signed, and-notarized]~~ affidavit ~~[with the court]~~ verified by a notary or other person authorized by law to administer an oath and file a copy of that affidavit with the prosecuting entity. The affidavit shall contain the factual information required in this section and by the court.

(b) A defendant claiming indigency who is charged with a crime the penalty of which is

less than a class A misdemeanor is not required to comply with the requirements of Subsection (a) and Subsection (4).

(3)(a) "Indigency" means that a person:

(i) does not have sufficient income, assets, credit, or other means to provide for the payment of legal counsel and all other necessary expenses of representation without depriving that person or the family of that person of food, shelter, clothing, and other necessities; or

(ii) has an income level at or below 150% of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services; and

(iii) has not transferred or otherwise disposed of any assets since the commission of the offense with the intent of establishing eligibility for the appointment of counsel under this chapter.

(b) In making a determination of indigency, the court shall consider:

(i) the probable expense and burden of defending the case;

(ii) the ownership of, or any interest in, any tangible or intangible personal property or real property, or reasonable expectancy of any such interest;

(iii) the amounts of debts owned by the defendant or that might reasonably be incurred by the defendant because of illness or other needs within the defendant's family;

(iv) number, ages, and relationships of any dependents; and

(v) other relevant factors.

(4) Upon making a finding of indigence, the court shall enter the findings on the record and enter an order assigning defense counsel to represent the defendant in the case. The clerk of the court shall send a copy of the affidavit and order to the prosecutor.

(5) If the county or municipality providing the defense counsel has any objections to or concerns with the finding of indigency and assignment of defense counsel or the continuing of indigency status and assignment of a public defender, it shall file notice with the court and a hearing shall be scheduled to review the findings and give the county or municipality the opportunity to present evidence and arguments as to the reasons the finding of indigency should be reversed.

(6)(a) If the trial court finds within one year after the determination of indigency that any defendant was erroneously or improperly determined to be indigent, the county or municipality may proceed against that defendant for the reasonable value of the services rendered to the defendant, including all costs paid by the county or municipality in providing the defense counsel.

(b) Subsection (6)(a) does not affect any restitution required of the defendant by the court pursuant to Title 77, Chapter 32a, Defense Costs.

**78-3-29. Presiding judge - Election - Term - Compensation - Powers - Duties.**

~~[(1)]~~ In judicial districts having more than one judge, the district court judges of the district shall elect one of their number to the office of presiding judge. ~~[The presiding judge shall act in that capacity for a term of not fewer than two years.]~~ In districts comprised of five or more of the following full-time positions; judge, court commissioner, referee, or hearing officer, the presiding judge shall receive an additional \$1,000 per annum as compensation. The presiding judge has the following authority and responsibilities, consistent with the policies of the Judicial Council:

~~[(a)]~~ (1) implementing policies of the Judicial Council;

~~[(b)]~~ (2) exercising powers and performing administrative duties as authorized by the Judicial Council;

~~[(c)]~~ (3) managing the judicial business of the district;

~~[(d)]~~ (4) calling and presiding over meetings of the judges of the district; and

~~[(e)]~~ (5) supervising the preparation and management of the county budget for the district courts.

~~[(2)] Upon the merger of the courts pursuant to Section 78-1-2, the incumbent presiding judge of the district court or the judge who was to become the presiding judge of such court under a prior election shall continue as presiding judge for the district for the balance of the term to which the judge was elected. Thereafter, a presiding judge shall be elected under Subsection (1).]~~

**78-3a-115. Hearings - Public excluded, exceptions - Victims admitted - Minor's cases heard separately from adult cases - Minor or parents or custodian heard separately - Continuance of hearing - Consolidation of proceedings involving more than one minor.**

(1)(a) Hearings in minor's cases shall be held before the court without a jury and may be conducted in an informal manner. The court shall exclude the general public and admit only those persons who have a direct interest in the case or in the work of the court or who have been requested by the parent or legal guardian to be present.

(b) The victim of any act charged in a petition or information involving an offense committed by a minor which if committed by an adult would be a felony or a misdemeanor as provided in Section 77-38-5 shall, upon request, be afforded all rights afforded victims in Title 77, Chapter 36, Cohabitant Abuse Procedures Act, Title 77, Chapter 37, Victim's Rights, and Title 77, Chapter 38, Rights of Crime Victims Act. The notice provisions in Section 77-38-3 do not apply to important juvenile justice hearings as defined in Section 77-38-2.

(c) A victim, upon request to appropriate juvenile court personnel, shall have the right to



inspect and duplicate juvenile court legal records that have not been expunged concerning:

- (i) the scheduling of any court hearings on the petition;
- (ii) any findings made by the court; and
- (iii) any sentence or decree imposed by the court.

(2) Notwithstanding Subsection (1), if a proceeding is conducted on a written petition charging a minor 16 years of age or older with an offense which if committed by an adult would be a felony ~~[or a misdemeanor as provided in Section 77-38-5]~~, the court shall admit any person to the proceeding unless closed by the judge upon findings on the record of good cause.

(3) Minor's cases shall be heard separately from adult cases. The minor or his parents or custodian may be heard separately when considered necessary by the court. The hearing may be continued from time to time to a date specified by court order.

(4) When more than one minor is involved in a home situation which may be found to constitute neglect or dependency, or when more than one minor is alleged to be involved in the same law violation, the proceedings may be consolidated, except that separate hearings may be held with respect to disposition.

#### **78-3a-201. Board of Juvenile Court Judges - Composition - Purpose.**

(1)(a) The Judicial Council shall by rule establish a Board of Juvenile Court Judges.

(b) The board shall establish general policies for the operation of the juvenile courts and uniform rules and forms governing practice, consistent with the provisions of this chapter, the rules of the Judicial Council, and rules of the Supreme Court.

(c) The board may receive and expend any funds that may become available from the federal government to carry out any of the purposes of this chapter. For this purpose, the board may meet any federal requirements that are conditions precedent to receiving the funds. The board may cooperate with the federal government in a program for training personnel employed or preparing for employment by the juvenile court and may receive and expend funds from federal or state sources or from private donations for these purposes. The board may contract with public or nonprofit institutions of higher learning for the training of personnel, may conduct short-term training courses of its own and may hire experts on a temporary basis for this purpose, and may cooperate with the Division of Child and Family Services and other state departments or agencies in personnel training programs.

(d) The board may contract, on behalf of the juvenile court, with the United States Forest Service or other agencies or departments of the federal government or with agencies or departments of other states for the care and placement of minors adjudicated under this chapter.

(e) The powers to contract and expend funds are subject to budgetary control and

procedures as provided by law.

(2) Under the direction of the presiding officer of the council, the chair shall supervise the juvenile courts to ensure uniform adherence to law and to the rules and forms adopted by the Supreme Court and Judicial Council, and to promote the proper and efficient functioning of the juvenile courts.

(3) The judges of districts having more than one judge shall elect a presiding judge. ~~[The presiding judge shall serve a term of not fewer than two years.]~~ In districts comprised of five or more judges and court commissioners, the presiding judge shall receive an additional \$1,000 per annum as compensation.

(4) Consistent with policies of the Judicial Council, the presiding judge shall:

(a) implement policies of the Judicial Council;

(b) exercise powers and perform administrative duties as authorized by the Judicial Council;

(c) manage the judicial business of the district; and

(d) call and preside over meetings of judges of the district.

**78-3a-313. Periodic review hearings -- Foster care citizen review boards.**

(1) Pursuant to federal law, periodic review hearings shall be held no less frequently than once every six months, either by the court or, in districts and areas where they are established, by a foster care citizen review board, in accordance with the provisions of Chapter 3g. In districts or areas where foster care citizen review boards have not been established, either the court or the Division of Child and Family Services shall conduct the review. In districts where they are established, foster care citizen review boards shall be considered to be the panels described in 42 U.S.C. Sections 675(5) and (6), which are required to conduct periodic reviews unless court reviews are conducted.

(2)(a) Within 30 days after completion of a review, a foster care citizen review board shall submit a copy of its dispositional report to the court to be made a part of the court's legal file, and provide copies to all parties to an action. In districts or areas where the Division of Child and Family Services conducts a review, it shall provide copies of its report to the court and to all parties within 30 days after completion of its review.

(b) In accordance with Section 78-3g-103, dispositional reports of foster care citizen review boards shall be received and reviewed by the court in the same manner as the court receives and reviews the reports described in Section 78-3a-505. The report by a board, if determined to be an ex parte communication with a judge, shall be deemed a communication authorized by law. Foster care citizen review board dispositional reports may be received as evidence, and may be considered by the court along with other evidence. The court may require any person who participated in the dispositional report to appear as a witness if the

person is reasonably available.

**78-3g-103. Foster care citizen review boards -- Membership --  
Responsibilities -- Periodic Reviews.**

(1) Foster care citizen review boards shall be established in the First, Second, Third, and Fourth Juvenile Court Districts, to act as the panels described in 42 U.S.C. Sections 675(5) and (6), which are required to conduct periodic reviews unless court reviews are conducted. At least one review board shall be established in the Fifth Juvenile Court District and at least one review board shall be established in the Seventh Juvenile Court District.

(2)(a) The committee shall appoint seven members to each board. Five of those members shall be parents.

(b) Five members of a board constitute a quorum, and an action of a majority of the quorum constitutes the action of the board.

(c) A board member may not be an employee of the division or the juvenile court.

(d) Board members shall be representative of the ethnic, cultural, religious, socio-economic, and professional diversity found in the community.

(e) A board may elect its own chair, vice chair, and other officers as it considers appropriate.

(f) The division may designate a representative to provide technical advice to the board regarding division policy and procedure.

(3) With regard to each child in its custody, the division shall provide the appropriate boards with access to all records maintained by the division.

(4)(a) In districts or areas where foster care citizen review boards have been established, periodic reviews either by the court or by a foster care citizen review board, shall be conducted with regard to each child in the division's custody no less frequently than once every six months, in accordance with Section 78-3a-313 and 42 U.S.C. Sections 675(5) and (6). In cases where the court has conducted a six month review hearing, a foster care citizen review board shall also conduct a review within 12 months from the date of the child's removal from his home.

(b) Periodic reviews conducted by foster care citizen review boards shall be open to the participation of the child's parents, in accordance with 42 U.S.C. Section 675(6).

(c) Boards may review additional abuse, neglect, or dependency cases or plans at the request of the court.

(5) Each board shall prepare a dispositional report regarding the child's case and plan. The periodic review and the dispositional report shall be consistent with the provisions of Title 62A, Chapter 4a, Family Services, and Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings, and shall include at least the following considerations:

(a) the extent to which the plan's objectives have been implemented or accomplished by the parent, the child, and the division;

(b) whether revisions to the plan are needed, and if so, how the plan should be revised;

(c) the extent to which the division has provided the services and interventions described in the plan, and whether those services and interventions are assisting, or will assist, the parent and child to achieve the plan's objectives within the statutory time limitations;

(d) the extent to which the parent and child have willingly and actively participated in the interventions described in the plan;

(e) the continuing necessity for and appropriateness of the child's placement;

(f) the extent of progress that has been made toward alleviating or mitigating the causes necessitating the child's removal or continued placement;

(g) a recommended permanency plan for the child and, if one has been established, an opinion regarding the appropriateness of that permanency plan; and

(h) a determination regarding whether the statutory time limitations described in Title 78, Chapter 3a, Part 3, have been met, specifically, whether the 12 month limitation on reunification services required by Section 78-3a-311 has been complied with. The board shall also render an opinion regarding when it estimates that the child will achieve permanency.

(6)(a) Each board shall submit its dispositional report to the court, the division, and to all parties to an action within 30 days after a case is reviewed by the board.

(b) The board's dispositional report shall be filed with the court, and shall be made a part of the court's legal file. The dispositional report shall be received and reviewed by the court in the same manner as the court receives and reviews the reports described in Section 78-3a-505. The report by a board, if determined to be an ex parte communication with a judge, shall be deemed a communication authorized by law. Foster care citizen review board dispositional reports may be received as evidence, and may be considered by the court along with other evidence. The court may require any person who participated in the dispositional report to appear as a witness if the person is reasonably available.

(7) Members of boards may not receive financial compensation or benefits for their services. Members may not receive per diem or expenses for their service, except that:

(a) members may be reimbursed for mileage on days that they are involved in training, at rates established by the Division of Finance; and

(b) members may be provided with a meal on days that they serve on a board.

(8) Boards are authorized to receive funds from public and private grants and donations in accordance with the requirements described in Subsection 78-3g-102(8).

(9) In districts or areas where foster care citizen review boards have not been established, either the court or the Division of Child and Family Services shall conduct the reviews in

accordance with the provisions of Subsections (4)(a) and (b), and Section 78-3a-313.

**78-7-25. Decisions to be rendered within sixty days - Procedures for decisions not rendered.**

(1) A judge of a trial court shall decide all matters submitted for final determination within ~~[60 days]~~ two months of submission, unless circumstances causing the delay are beyond the judge's personal control.

(2) The Judicial Council shall establish reporting procedures for all matters not decided within ~~[60 days]~~ two months of final submission.

**78-28-1. Utah Quick Court - Purpose of program - Location of computer terminals - User's fee.**

(1)(a) There is established the Utah Quick Court as a program to be administered by the Administrative Office of the Courts to begin on January 1, 1995, designed to assist the pro se civil litigant in the preparation of pro se court documents through computer use in:

- (i) uncontested divorces;
- (ii) enforcement of orders in the divorce decree including visitation, child custody, and property division; and
- (iii) landlord and tenant actions.

(b) The pro se documents prepared in uncontested divorces shall include a calculation of child support payments if applicable.

(c) The computer terminal shall also provide information to users about:

- (i) the procedures of the district court;
- (ii) the procedures of the small claims court;
- (iii) landlord and tenant rights and responsibilities;
- (iv) alternative dispute resolution;
- (v) child support collection procedures;
- (vi) how to collect court judgments; and
- (vii) how to settle minor disputes without legal action.

(2) The statewide purpose of the Utah Quick Court program shall be to:

- (a) minimize the costs of civil litigation;
- (b) improve access to the courts; and
- (c) provide for informed use of the courts and the law by pro se litigants.

(3) The computer terminals shall be installed at four judicial districts with locations to be selected by the policy board.

(4) The program shall provide for public access to computer terminals for a ~~[\$10]~~ fee determined by the Judicial Council under Section 63-2-203 with the intent that the program shall become self-sufficient. The fee shall be charged for the preparation of documents under

Subsections (1)(a) and (1)(b), but not for information under Subsection (1)(c). The user fee shall cover the costs of providing the services and maintaining the computer terminals. Any excess monies generated by user fees shall be returned to the General Fund, not the Administrative Office of the Courts.

## NEW JUDICIAL POSITIONS

1998 GENERAL SESSION

STATE OF UTAH

AN ACT RELATING TO THE JUDICIAL CODE; ADDING ONE DISTRICT COURT JUDGE TO THE THIRD JUDICIAL DISTRICT AND ONE JUVENILE COURT JUDGE TO THE SECOND JUDICIAL DISTRICT.

This act affects sections of the Utah Code Annotated 1953 as follows:

AMENDS:

78-1-2.2

78-1-2.3

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

### **78-1-2.2. Number of district judges.**

The number of district court judges shall be ~~[not more than]~~:

- (1) four district judges in the First District;
- (2) 13 district judges in the Second District;
- (3) ~~[29]~~ 30 district judges in the Third District;
- (4) 12 district judges in the Fourth District;
- (5) four district judges in the Fifth District;
- (6) two district judges in the Sixth District;
- (7) three district judges in the Seventh District; and
- (8) two district judges in the Eighth District.

### **78-1-2.3. Number of juvenile judges and jurisdictions.**

The number of juvenile court judges shall be:

- (1) one juvenile judge in the First Juvenile District;
- (2) ~~[four]~~ five juvenile judges in the Second Juvenile District;
- (3) eight juvenile judges in the Third Juvenile District;
- (4) four juvenile judges in the Fourth Juvenile District;
- (5) two juvenile judges in the Fifth Juvenile District;
- (6) one juvenile judge in the Sixth Juvenile District;
- (7) one juvenile judge in the Seventh Juvenile District; and
- (8) one juvenile judge in the Eighth Juvenile District.

## NEW JUDICIAL POSITIONS

1998 GENERAL SESSION

STATE OF UTAH

AN ACT RELATING TO THE JUDICIAL CODE; ADDING ONE DISTRICT COURT JUDGE TO THE THIRD JUDICIAL DISTRICT AND ONE JUVENILE COURT JUDGE TO THE SECOND JUDICIAL DISTRICT.

This act affects sections of the Utah Code Annotated 1953 as follows:

AMENDS:

78-1-2.2

78-1-2.3

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

### **78-1-2.2. Number of district judges.**

The number of district court judges shall be ~~[not more than]~~:

- (1) four district judges in the First District;
- (2) 13 district judges in the Second District;
- (3) ~~[29]~~ 30 district judges in the Third District;
- (4) 12 district judges in the Fourth District;
- (5) four district judges in the Fifth District;
- (6) two district judges in the Sixth District;
- (7) three district judges in the Seventh District; and
- (8) two district judges in the Eighth District.

### **78-1-2.3. Number of juvenile judges and jurisdictions.**

The number of juvenile court judges shall be:

- (1) one juvenile judge in the First Juvenile District;
- (2) ~~[four]~~ five juvenile judges in the Second Juvenile District;
- (3) eight juvenile judges in the Third Juvenile District;
- (4) four juvenile judges in the Fourth Juvenile District;
- (5) two juvenile judges in the Fifth Juvenile District;
- (6) one juvenile judge in the Sixth Juvenile District;
- (7) one juvenile judge in the Seventh Juvenile District; and
- (8) one juvenile judge in the Eighth Juvenile District.