

JUDICIAL COUNCIL MEETING AGENDA

Monday, February 24, 2003
Council Room, Matheson Courthouse
450 South State Street
Salt Lake City, Utah

Chief Justice Christine M. Durham, Presiding

- | | | | |
|-----|------------|---|--|
| 1. | 9:30 a.m. | Welcome & Approval of Minutes
(Tab 1 - Action) | Chief Justice Christine
M. Durham |
| 2. | 9:35 a.m. | Chair's Report
(Information) | Chief Justice Christine
M. Durham |
| 3. | 9:45 a.m. | Administrator's Report
(Information) | Daniel J. Becker |
| 4. | 10:05 a.m. | Reports: Management Committee
Policy and Planning
Bar Commission
(Tab 2 - Information) | Chief Justice Christine M. Durham
Hon. Lee Dever
C. Dane Nolan, Esq. |
| 5. | 10:20 a.m. | Third District South Valley
Facilities Master Plan
(Action) | Gordon Bissegger |
| 6. | 10:35 a.m. | Juvenile Court Open Hearings Issue
(Information) | Hon. Judith Atherton,
Hon. Charles Behrens |
| 7. | 10:55 a.m. | <i>Break</i> | |
| 8. | 11:10 a.m. | New Judge Orientation
(Tab 3 - Information) | Diane Cowdrey |
| 9. | 11:20 a.m. | Approval of Judicial Performance
Evaluation Deadlines
(Tab 4 - Action) | Tim Shea |
| 10. | 11:35 a.m. | <i>Lunch</i> | |

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|-----|------------|--|---|
| 11. | 12:00 p.m. | Liaison Committee Report
Legislative/Budget Update
(Information) | Hon. Jerald Jensen
Daniel J. Becker,
Myron K. March
Richard Schwermer,
Mark Jones |
| 12. | 2:00 p.m. | Executive Session | |
| 13. | | Adjourn | |

Consent Calendar

The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.

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|----|---|-----------------------------|
| 1. | Appointment to the Committee on Privacy and
Public Records
(Tab 5) | Hon. Pamela Greenwood |
| 2. | Appointments to the Standing Committee on
Education
(Tab 6) | Tim Shea |
| 3. | Salt Lake City Domestic Violence Grant: Proposed
Court Involvement
(Tab 6) | Alicia Davis, Jerome Battle |
| 4. | Appointment of Brent Gottfredson as Active Senior
Justice Court Judge
(Tab 8) | Richard Schwermer |

*****Press Clippings - Attached*****

TAB 1

JUDICIAL COUNCIL MEETING

MINUTES

Tuesday, January 14, 2003
Council Room, Matheson Courthouse
450 South State Street
Salt Lake City, Utah

Chief Justice Christine M. Durham, Presiding

MEMBERS PRESENT:

Chief Justice Christine M. Durham
Justice Matthew Durrant
Hon. James Davis
Hon. Ben Hadfield
Hon. Jerald Jensen
Hon. Clair Poulson
Hon. Lee Dever
Hon. Robert Hilder
Hon. Andrew Valdez
Hon. Gary Stott
Hon. Ronald Hare
Hon. K.L. McIff
Hon. Scott Johansen
C. Dane Nolan

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Richard Schwermer
D. Mark Jones
Ray Wahl
Matty Branch
Tim Shea
AnNicole Faeth

GUESTS PRESENT:

Hon. Michael Allphin, *Chair, Board of District Court Judges*
Jerry Howe, *Office of Legislative Research and General Counsel*
Dave Walsh, *Governor's Office*
Elizabeth Neff, *Salt Lake Tribune*

1. WELCOME & APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)

All in attendance were welcomed to the meeting. The minutes of the Council's December meeting were discussed. A few minor changes were mentioned. The following motion was then made.

Motion: A motion was made to approve the minutes. The motion was seconded and carried unanimously.

2. CHAIR'S REPORT: (Chief Justice Christine M. Durham)

Chief Justice Durham reported that meetings with legislators in the Second, Third, and Fourth Districts are scheduled to take place the week of January 13th. It was also mentioned that a retirement reception for Justice Richard Howe will take place January 15th.

3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Daniel J. Becker reported the following items:

- A meeting of Presiding Judges and Court Executives was held December 30th, to review budget reduction options in response to the legislature's actions during the Special Session.
- The application process to fill the judicial vacancy in the Fifth District Court closed January 10th.
- Judge Roger Livingston has announced his retirement, effective the end of February or March. This judicial vacancy will be transferred from the Third District Court to the Fifth District Court.
- Judge S. Mark Johnson has withdrawn his request to be re-certified as a senior judge.
- The State of the Judiciary Address will take place Tuesday, January 21st at 2:00 p.m.

4. REPORTS:

Management Committee: (Chief Justice Christine M. Durham)

Chief Justice Durham reported that she had nothing to report in addition to what is included in the Management Committee's minutes.

Policy and Planning: (Hon. Lee Dever)

Judge Dever reported that the Policy and Planning Committee discussed a change to rule 4-608. Also, additional discussions took place concerning the Council's request that the 1996 court reporting rule changes be reviewed. Chief Justice Durham suggested that, in the future, the committee could also report on long-term issues they are dealing with.

Liaison Committee: (Hon. Jerald Jensen)

Judge Jensen reported that the Liaison Committee drafted a position paper showing the Council's support of justice courts. The paper has received the support of the Board of Justice Court Judges. After discussion took place, the following motion was made.

Motion: Judge Hadfield made a motion to adopt the position paper in support of justice courts. The motion was seconded and carried unanimously.

Judge Jensen then reported that the committee is tracking several issues, including a bill concerning access to child welfare proceedings, retention elections for justice court judges, and HB 238 which deals with the withdrawal of plea provisions in Rule 11 of the Utah Rules of Criminal Procedure.

Discussion took place regarding HB 238. The following motion was then made.

Motion: Judge Johansen made a motion to take the position with the Attorney General's Office that this should be a rule change not statutory change, and that the Council would invite discussions by the AG's Office concerning this issue. Judge Hilder seconded the motion. The motion carried unanimously.

Discussions then took place concerning access to child welfare proceedings. It was reported that a subcommittee of the Council's Standing Committee on Children and Family Law supports the bill which would open proceedings, and it was noted that the Supreme Court would need to implement rule changes if the bill passed. It was mentioned that the Board of Juvenile Judges opposes the bill, and would prefer a presumed closed system.

Motion: Judge Johansen made a motion to have two pilots implemented, one with presumed open proceedings and one with presumed closed proceedings. It was also moved that if the presumption was not changed to a closed system, the bill would sunset the end of 2003, absent any further action. Judge Valdez seconded the motion. The motion carried with one opposed.

The Council then discussed a bill regarding mandatory sanctions for parents who deny visitation. It was reported that the results of a pilot, which was conducted in 1992, indicated that these mandatory sanctions did not work. The issue is being reintroduced, however. The Liaison Committee raised a number of concerns with the bill, and recommended that the Council take no position at this time, but that their concerns be raised with the bill's sponsor.

Motion: Judge Jensen made a motion that the Council take no position on the aforementioned bill at this time, but that the Council's concerns be raised with the bill's sponsor. Judge Stott seconded the motion. The motion carried unanimously.

Bar Commission: (C. Dane Nolan)

Dane Nolan reported that the Bar has not met since the Council's last meeting. Mr. Nolan then mentioned that if there are issues the Bar should be made aware of in anticipation of the Legislative Session, Council members may notify him.

5. REPORT: BOARD OF DISTRICT COURT JUDGES: (Hon. Michael Allphin, D. Mark Jones)

Judge Michael Allphin, chair of the Board of District Court Judges, reported that the Board has appreciated the interaction of Council members who have provided reports in their monthly meetings. Judge Allphin asked that the Council keep the Board aware of issues. It was mentioned that the District Board would recommend that when the Council considers budget reductions, they do not make across the board cuts to all the districts, but that reductions be made where they can best be absorbed. Judge Allphin noted that, if money were to become available, the Board would resubmit their request for additional law clerks.

Judge Allphin suggested that individuals who are going through the confirmation process should receive support of some sort, possibly from the Governor's Office. The Council supported the notion of assistance to judicial nominees going through the confirmation process, and agreed that this assistance would best be provided by the Governor's Office. Discussion then took place concerning informing legislators and judicial nominees about judicial canons which apply to nominees. Jerry Howe, of the Office of Legislative Research and General Counsel, expressed support of the notion of providing information to legislators about judicial canons that apply to nominees.

In closing, Judge Allphin expressed appreciation to Mark Jones, staff to the District Board, for his efforts.

6. JUSTICE COURT CERTIFICATION: (Richard Schwermer)

Richard Schwermer reported that the Standing Committee on Justice Court Standards recommends that all applicants before the Council for certification, be re-certified for a term of four years, effective February 3, 2003.

Motion: Judge Stott made a motion to accept the aforementioned recommendations. Dane Nolan seconded the motion. The motion carried unanimously. Judges Hare, Jensen, and Poulson abstained from the vote as it pertained to their own court.

7. BUDGET DISCUSSION: (Daniel J. Becker)

Daniel J. Becker reported that the legislative session will begin January 20th. Mr. Becker discussed the make-up of the court's budget, reductions that have already taken place within the last year, the court's response to those reductions, and reductions that will be taken in FY '03 and potentially in FY '04. It was reported that the Governor vetoed actions taken by the legislature in the special session regarding reductions in the court's budget.

Daniel Becker reviewed with the Council the following options which could be considered if

additional reductions in the Main Line Item in FY 2003 were made by the legislature:

- Use of carry forward funds from FY '02 (\$629,400)
- Hiring freeze implemented for remainder of fiscal year (\$680,000)
- Money generated from existing and anticipated judicial vacancies (\$97,900)
- Reduce contract sites by 4.2% (\$19,600)
- Cancel spring conferences and judicial out of state travel (\$63,050)
- Reduce current expense/work related travel (\$100,000)

Mr. Becker recommended that efforts be made to take as few personnel reductions as possible, and mentioned that a furlough could be considered in the current fiscal year in lieu of reductions in force.

The Council discussed the possibility of reducing the amount spent on the court level spring conferences and judicial out of state travel by \$23,050 leaving \$40,000 to be used for those purposes. The following motion was then made.

Motion: Judge Hadfield, made a motion to reduce education by \$23,050 this year, and that the remaining \$40,000 (including \$12,000 in out of state judicial travel) be used for the spring court level conferences. Judge McIff seconded the motion. The motion carried with one opposed.

The Council also asked that the Education Standing Committee present a plan at their next meeting for holding the spring conferences at this lower amount.

Motion: Judge Hadfield made a motion to approve the options for reducing the Main Line Item, if necessary, as outlined above. Judge Hilder seconded the motion. The motion carried unanimously.

Discussion then took place concerning the Council and Boards holding meetings in St. George in conjunction with the Mid-Year Bar Conference in March. The following motion was made.

Motion: Judge Johansen made a motion to hold the March Council and Board meetings in Salt Lake City. Judge Davis seconded the motion. The motion was defeated with 5 in favor 6 opposed.

The Council then discussed the possibility of Council and Board members using \$200 of the \$400 set aside for attending Bar meetings, to attend the Mid-Year Bar Conference. Dane Nolan also mentioned that he would look into the possibility of the Bar monitarily contributing to the attendance of the Council and Boards.

Discussion then took place concerning the possibility of implementing a furlough in the current fiscal year.

Motion: Judge Hilder made a motion to authorize the AOC to work with the Legislature using a furlough and a reduction in force as options to deal with reductions in the court's budget, if necessary. The motion was seconded and carried unanimously.

8. COMMENTS TO RULES: (Tim Shea)

Tim Shea reported that the comment period for several Judicial Council rules has closed. The rules included the following:

- Rule 2-203. Forty-five day comment period.
- Rule 3-306. Court Interpreters.
- Rule 4-207. Expungement and sealing of records.
- Rule 4-405. Juror and witness fees and expenses.
- Rule 4-408. Locations of trial courts of record.
- Rule 9-102. Caseload report requirements.
- Rule 3-414. Court security.
- Rule 4-608. Trials de novo of justice court proceedings in criminal cases.
- Rule 4-903. Uniform custody evaluations.

Motion: Judge Johansen made a motion to continue the moratorium on an increase in the hourly rate for court interpreters by \$5.00, referred to in rule 3-306. The motion was seconded and carried.

Motion: Judge Johansen made a motion to approve the aforementioned rules. The motion was seconded and carried unanimously.

9. NOTIFICATION OF DISBARMENTS: (Daniel J. Becker)

Daniel J. Becker reported that a request was received by the Bar to send notification of disbarments directly to judges by email. Mr. Becker mentioned that the courts rarely allow parties to have access to judges' email addresses. The Bar assures the courts that the addresses will not be used for any other purpose, and will not be shared with any other individuals or parties.

Motion: Judge Dever made a motion not to grant the Bar's request. The motion failed for lack of a second.

Motion: Judge Hadfield made a motion to grant the Bar's request, with the understanding that the email addresses will only be used for this purpose. Dane Nolan seconded the motion. The motion carried with one opposed.

10. ADJOURN:

Motion: A motion was made to adjourn the meeting. The motion was seconded and carried unanimously.

TAB 2

JUDICIAL COUNCIL MANAGEMENT COMMITTEE

MINUTES

**Tuesday, February 11, 2003
Council Room, Matheson Courthouse
450 South State Street
Salt Lake City, Utah**

Chief Justice Christine M. Durham, Presiding

MEMBERS PRESENT:

Chief Justice Christine M. Durham
Hon. James Davis
Hon. Robert Hilder
Hon. Clair Poulson
Hon. Scott Johansen

GUESTS PRESENT:

Hon. Kimberly Hornak
Hon. Pamela Greenwood
Hon. Charles Behrens
Hon. Judith Atherton

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Richard Schwermer
D. Mark Jones
Ray Wahl
Tim Shea
Diane Cowdrey
Alicia Davis
Jerome Battle
Kim Allard
Heather Mackenzie-Campbell
Brent Johnson
Barbara Hanson
AnNicole Faeth

1. WELCOME & APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)

All in attendance were welcomed to the meeting. The minutes of the Management Committee's January meeting were discussed. A motion was then made.

Motion: A motion was made to approve the minutes. The motion was seconded and carried unanimously.

2. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Daniel J. Becker reported the following items:

- Assuming the court security fee is passed, and main line item reductions already approved are implemented, it appears that reductions in the court's FY 2003 budget will be able to be addressed without a furlough or reductions in force. In regards to the security fee, the legislature

is currently considering a \$5 increase in fees for small claims, and a \$13 increase in all other filings. In FY 2004, assuming the implementation of a security fee and use of the court complex fund, the court's will have an \$832,000 reduction, down from \$3.9 million.

The Appropriations Sub-committee heard a proposal from the Legislative Fiscal Analysts' Office to eliminate State Supervision, Child Welfare Mediation, the Capital Law Clerk, and Appellate Mediation. This was in response to an additional 2% reduction that had been proposed. The sub-committee disagreed with this proposal, and only voted to eliminate the Appellate Mediation program (\$157,800) if revenue projections end up being worse than anticipated. Mr. Becker suggested that the courts ask the sub-committee to leave this program intact, and to give the courts the discretion to reduce \$157,800 elsewhere in its budget if it becomes necessary. The subcommittee also approved an increase in the use of the CASA licence plate fund by \$41,000. This money will be used by the CASA/GAL program. Additionally, the sub-committee approved the use of the Court Reporting Fund, in the amount of \$100,000, for the purchase of additional court reporting equipment.

- Bill Greer, Legislative Fiscal Analyst to the courts, has been called up on military duty. Kevin Walters has assumed this role.
- The Capital Facilities Committee will meet February 12th, at which time they will discuss the West Jordan and Sandy proposals. The courts have received support from Senate and House leaders for selling the Sandy Courthouse at \$4.5 million. The Sandy City Council will meet the evening of February 11th to consider this selling price.
- Judge Roger Livingston has formally announced his retirement, effective February 28th.
- Susan Scott, the former Clerk of Court in Washington County, has entered guilty pleas to three felony counts, and will soon be sentenced.
- An updated AOC staff resource guide was distributed. The guide will be updated regularly, and is available on the intranet at <http://www.utcourts.gov/directory/empdir/aocresource.pdf>
- The protective order section of the Online Court Assistance Program was placed online the end of January.
- The legislative update will be held in the Matheson Courthouse this year in order to reduce the costs associated with holding the meeting. The update will still take place March 23rd.

Richard Schwermer then reported the following:

- HB 119, which discusses the Judicial Conduct Commission, was reported out of committee with a favorable report.

-HB 370 would shift the responsibility of certifying judges from the Judicial Council to the Supreme Court. This bill, however, is not out yet.

- Judge McIff, Judge Johansen, and Judge ??? met with Senator Valentine recently and discussed the retention/confirmation issue that Senator Valentine had been proposing.

- HB 238 would change the way rule 11 is interpreted. The committee opposed this bill.

- The Liaison Committee has not yet taken action on HB 222, the child welfare access bill.

- The Constitutional Revision Commission met Friday, February 7th, at which time they were expected to discuss the issue of the House calling itself into session for the purpose of conducting impeachment proceedings. This issue was not discussed, however.

3. APPROVAL OF JUDICIAL COUNCIL'S AGENDA: (Daniel J. Becker)

The Management Committee reviewed a proposed agenda for the Council's February 24th meeting. After discussion took place, the following motions were made.

Motion: Judge Hilder made a motion to have the issue of attending the Mid-Year Bar Conference discussed in the Administrator's Report. Judge Davis seconded the motion.

Motion: Judge Davis made a motion to approve the agenda. The motion was seconded and carried unanimously.

4. SPRING JUDICIAL CONFERENCES: (Hon. Kimberly Hornak, Diane Cowdrey)

Judge Hornak reported that the Education Standing Committee was asked to reduce spending on the spring judicial conferences by \$23,050. Judge Hornak presented two options for holding the conferences at a reduced cost: 1) reduce conferences by 50% and completely eliminate out of state travel (\$80,275), 2) reduce conferences by 50% but keep funds for new judges to attend the judicial college in Reno, Nevada (\$74,275). General premises and guidelines for holding the conferences were also mentioned, such as the meeting dates remaining the same, having conference locations on the Wasatch Front, lodging only being provided to participants outside the 2nd, 3rd, and 4th districts, and reducing meal and break costs. It was noted that both options presented would save significantly more money than the Education Standing Committee was asked to save.

Motion: Judge Hilder made a motion to accept option two. The motion was seconded and carried unanimously.

5. NEW JUDGE ORIENTATION: (Diane Cowdrey, Kim Allard)

Diane Cowdrey and Kim Allard reported that comprehensive orientation and reference materials for new judges will be placed in one location on the court's website. The website will be accessed via a user ID and a password. The Management Committee was pleased with this change, and asked that this information be shared with the Council on the 24th.

6. POST-RETIREMENT EMPLOYMENT RULES: (Brent Johnson, Barbara Hanson)

Brent Johnson reported that the State Retirement Board has recently decided that legislation that was passed a couple of years ago will pertain to retired judges that became active senior judges. That law states that employees who retire cannot work more than 20 hours per pay period for up to 6 months if they come back and work for the same agency. Mr. Johnson indicated that an argument could be made that senior judges are in a different category than other employees. The Management Committee recommended that this issue be forwarded to Policy and Planning for a definition of the problem and the formation of a solution to be presented to the Retirement Board.

7. SALT LAKE CITY DOMESTIC VIOLENCE GRANT: PROPOSED COURT INVOLVEMENT: (Jerome Battle, Alicia Davis)

The Management Committee discussed proposed court involvement in a Salt Lake City domestic violence grant. It was mentioned that some concerns have been raised regarding the court involvement in this grant possibly creating minor workload issues. It was suggested that, if the committee deemed this a valuable project, a memorandum of understanding be created which would indicate that the Third District would monitor the amount of work involved with this project, and that continued involvement at the end of the grant would be considered based upon workload impact.

Motion: A motion was made to place this issue on the consent calendar with a memorandum of understanding as mentioned above.

8. APPOINTMENT TO THE COMMITTEE ON PRIVACY AND ACCESS TO COURT RECORDS: (Hon. Pamela Greenwood)

Judge Greenwood reported that the Committee on Privacy and Access to Court Records has recommended that an additional member be appointed to the committee who would represent the media. They forwarded the name of Joel Campbell for consideration by the Management Committee.

Motion: Judge Poulson made a motion to add an additional member to the committee, and to appoint Joel Campbell in that position. Judge Hilder seconded the motion. The motion carried

unanimously. This will be placed on the consent calendar.

9. STANDING COMMITTEE APPOINTMENTS: (Tim Shea)

Tim Shea reported that Sheila McCleve is completing her first term on the Education Standing Committee, and has expressed a desire to be reappointed. The committee recommends this action. The committee also recommends that Judge Gordon Low be appointed for a first term.

Motion: A motion was made to approve the aforementioned appointments. The motion was seconded and carried unanimously. This will be placed on the consent calendar.

10. SENIOR JUSTICE COURT JUDGE CERTIFICATION: (Richard Schwermer)

Richard Schwermer reported that Judge Brent Gottfredson has applied for active senior justice court judge status. It was noted that Judge Gottfredson has reached the age of 75, but that the rules do not prohibit a justice court judge from receiving active senior judge status upon reaching that age. After discussion took place, the following motion was made.

Motion: A motion was made to forward this issue to the consent calendar for approval of Judge Gottfredson as an active senior judge, and to ask policy and planning to review the rule regarding active senior justice court judge appointments. The motion was seconded and carried unanimously.

11. 7TH DISTRICT, EMERY COUNTY: CASTLE DALE JUVENILE COURT FINAL AUDIT REPORT: (Heather Mackenzie-Campbell)

Heather Mackenzie-Campbell reported on the results of the 7th District, Emery County, Castle Dale Juvenile Court audit. The Management Committee thanked Ms. Mackenzie-Campbell, and the Audit Division for their fine work.

12. JUVENILE COURT OPEN HEARINGS ISSUE: (Hon. Judith Atherton, Hon. Charles Behrens)

Judge Behrens reported that the Standing Committee on Children and Family Law formed a subcommittee some time ago to review the issue of public access in the juvenile court. The subcommittee and standing committee agree with the notion of a presumed open system. It was noted that legislation is currently being considered regarding this issue. Also, this issue will be discussed in the Council meeting on February 24th.

13. OTHER BUSINESS:

- Judge Davis discussed the legislative outreach program. The reports received from Judge Peuler,

Judge Roth, Judge Hilder, and Judge Davis who have already participated in the program have been very positive. They feel that with good matching of legislators with judges, and good ground rules laid upfront, this can be a good program. Judge Davis thought that the program should continue with good matches. After discussion took place, the Management Committee expressed support of this program.

14. ADJOURN:

Motion: A motion was made to adjourn the meeting. The motion was seconded and carried unanimously.

MINUTES

POLICY AND PLANNING COMMITTEE

Friday, February 7, 2003
Administrative Office of the Courts

Honorable L.A. Dever, Presiding

PRESENT: Honorable L.A. Dever, Honorable Matthew B. Durrant, Honorable Ronald R. Hare, Honorable Gary D. Stott, Dane Nolan, Esq.

STAFF: Timothy M. Shea, Carolyn Carpenter

I WELCOME and MINUTES APPROVAL

Judge Dever called the meeting to order and asked for any comment on the minutes. A correction was noted on page 4 and will be made. Judge Stott made a motion to approve the minutes as corrected, seconded by Mr. Nolan. The motion passed.

II REVIEWING COORDINATED COURT REPORTING

Mr. Shea distributed a copy of Rule 4-201, Record of Proceedings. A copy of rule 4-201 had been sent to judges and court reporters, asking for comments to proposed changes to the rule. Mr. Shea noted that a few judges and one court reporter replied. After considerable discussion, it was decided that the only change to be made would be as follows: Line 23 will introduce paragraph C and the word "may" will be changed to "should" so that this section now reads: At the judge's discretion, an official court reporter or approved substitute court reporter should maintain the official verbatim record in all evidentiary hearings after arraignment and trials in first degree felonies and in cases in which the judge finds that an appeal of the case is likely, regardless of the outcome in the trial court;"

Judge Stott made a motion to adopt the change to Rule 4-201. The motion was seconded by Dan Nolan and passed unanimously. The rest of the amendments will remain the same. As revised, this rule will go out for comment in the next cycle, Mr. Shea said.

A question was sent to the Trial Court Executives and the managing court reporters to comment on the continued need for time sheets for court reporters. The TCEs unanimously favored keeping the time sheets. No replies were received from managing court reporters. In response to this, Mr. Shea suggested some elements to be considered in the time sheets for content. After

discussion, it was decided to have TCEs Paul Sheffield, Larry Gobleman and Rick Davis with their corresponding managing district court reporters review/revise the time sheets and make recommendations. Tim Shea will send a letter to them with this charge/assignment, asking for a suggested format from this group by April.

Further discussion ensued on the issue of the RIF plan for court reporters. Mr. Shea noted that the current 2003 budget appears to be stable, and though 2004 is still a question, a recommendation about the RIF plan could be made at this time. Discussion brought out the point that it is better to make a recommendation and then a decision before there is an immediate impact on court reporters due to any change in budget or the necessary rif of a court reporter.

There has been much discussion of this issue during the previous two meetings, with several views expressed. Discussion today reviewed the problems in recognizing three classifications of court reporters for pay purposes but not for competency in determining RIF procedures. Mr. Shea will review with Brent Johnson whether court reporters on levels one and two can be classified the same in terms of a RIF policy and be in compliance with human resource laws.

It was decided a recommendation on this issue will be made at the next Policy & Planning Committee meeting.

III Lawyer/Judge "ombudsman" A proposal from the Committee on Judicial Performance Evaluation

Mr. Shea said this issue came up in a discussion of the Performance Evaluation Review Committee, chaired by John Ashton. Mr. Shea was asked to present this idea to the Policy and Planning committee not for endorsement, but for discussion as an idea. Respected lawyers or retired judges could be among volunteers to serve as intermediaries to provide a format for lawyers to talk with judges and vice versa about a perceived problem without the added problems of ex parte contact, undue influence, etc., entering in. It was an idea that seemed to have some merit in the committee, Mr. Shea noted.

During discussion of this idea by the Policy and Planning committee members, the following points were made:

- It would be important that the communication be done without formal complaint procedures.
- It should not be a conduit for constant complaining by judges or lawyers
- It should serve as an informal way of clearing the air/helping before a formal complaint is filed.
- The process should be informal and voluntary and not become a policy.
- The people on the Performance Evaluation Committee should approach the presiding judges of the districts, the appellate judges, the boards of

district court judges and justice court judges with the idea of talking to them about creating a participation methodology that they could buy into.

- The Performance Evaluation Committee should not act on its own in this respect, but rather report it and let the state bar take the initial steps.
- It could become too formalized if the Judicial Council weighs in on it, and so it should go through local bar associations.
- The monthly meetings with the bar association would be useful in settling lawyer/judge concerns. Feedback is given from the local bar associations almost monthly and taken seriously.
- Tim Shea will check with Colin Winchester of the Judicial Conduct Commission for his opinion regarding an ombudsman idea.

IV Request from Chief Justice: Long Term and Big Picture

Tim Shea reported that the Chief Justice had asked that each committee give her a long term objective, a list of issues before them and a time frame for resolving the issues.

Judge Dever stated that Mr. Shea could let her know of the issues around court reporters that are currently being discussed, and the time frames decided upon for resolution.

There being no further business, the meeting was adjourned.

JUDICIAL COUNCIL LIAISON COMMITTEE

MINUTES

Friday - January 10, 2003

12:00 noon

Administrative Office of the Courts - Council Room

Honorable Jerald Jensen, Presiding

MEMBERS PRESENT:

Hon. Jerald Jensen

Hon. K. L. McIff

Hon. Ben Hadfield (telephone conference)

MEMBER EXCUSED:

Hon. Andrew Valdez

STAFF PRESENT:

Richard Schwermer

Mark Jones

Ray Wahl

Brent Johnson

Tim Shea

Alicia Davis

Sandy Iwasaki

1. WELCOME/APPROVAL OF MINUTES: (Judge Jensen)

Judge Jensen welcomed everyone to this Liaison Committee meeting and asked for any input on the minutes from the December 16, 2002, meeting.

There being no input or discussion of the minutes, there was a general consensus to approve the minutes from the December 16, 2002, meeting as written.

2. JUDICIAL COUNCIL POSITION PAPER: (Judge McIff)

Following a discussion at the last Liaison Committee meeting, it had been decided that Judge McIff and Mr. Shea would draft a position paper in response to a proposal being made that would have county justice court judges serve at the pleasure of county commissioners rather than stand for retention election. The committee agreed that this position paper should be presented to the Judicial Council for approval.

3. H.B. 6 - SHARED PARENTING BY DIVORCING PARENTS: (Judge Hadfield)

This bill would provide a rebuttable presumption of equal access to minor children during the pendency of an action for divorce.

Mr. Schwermer advised the committee of some comments he received from judges and commissioners in response to the proposed bill. He had received a comment of opposition as to the requirement that the court would have to make written findings when equal access is denied. There was also concern expressed that the proposal mandates equal access, but does not adequately define it.

Mr. Schwermer reported that there is a \$230,000 fiscal note attached to the bill. This fiscal note is in anticipation of more hearing time required as a result of the provisions of the bill.

Committee's Position: *No position, but express concerns with the written findings requirement and the workload impact of an anticipated increase in hearing time required.*

4. H.B. 10 - PARENT-TIME AMENDMENTS: (Judge Hadfield)

This bill prohibits courts from considering gender when determining custody in a divorce and specifies considerations for the court in determining parent-time. It also revises the parent-time sanctions found in the Judicial Code.

Mr. Shea expressed concern with the proposal (lines 84-90) mandating the court to impose specific sanctions for substantial noncompliance with a parent-time order because this appears to infringe on judicial independence. He also pointed out that this type of contempt is punishment for a violation of a court order which may be considered criminal contempt. However, the procedures specified in the proposal are civil procedures. Mr. Johnson indicated that there is also a legitimate question as to whether or not this is actually considered contempt.

Committee's Position: *No position, but refer this proposal to the Judicial Council for input and express concern with the mandated sanctions for substantial noncompliance of a parent-time order.*

5. H.B. 57 - EXPANSION OF PROTECTIVE ORDER: (Judge McIlff)

This bill modifies bail requirements for violations of protective orders by requiring a judicial appearance before bail may be posted by a person who is arrested for violating a protective order.

It was noted that there may be a need to clarify what constitutes a "judicial appearance" since bail may not be posted by a person who is arrested for violating a protective order prior to the accused's first judicial appearance. There was question as to whether or not the probable cause statement would qualify as an appearance.

Committee's Position: *No position.*

6. S.B. 8 - SENTENCING IN CAPITAL CASES AMENDMENTS: (Judge McIff)

This bill is in response to the recent U.S. Supreme Court case *Atkins v Virginia* which prohibits execution of the mentally retarded. The proposal modifies the Criminal Code by providing that persons found by the court to be mentally retarded are not subject to the death penalty, and defines mental retardation as applicable in death penalty cases.

Judge McIff noted that there are inconsistencies in the definitions of the terms "mental retardation" and "mentally retarded" and inconsistencies as to when those terms are used. He also indicated that the amendments will probably result in additional hearings being required.

Committee's Position: No position, but note that definitions should be cleaned up.

At this point, Judge Hadfield left the teleconference because he was needed in a jury trial.

7. S.B. 20 - FACILITATION OF E-GOVERNMENT: (Judge Jensen)

This bill modifies the Uniform Electronic Transactions Act and construction statutes to facilitate government agencies providing services electronically.

Mr. Schwermer advised the committee that on page 2, subsection (1)(d)(ii), line 53, this proposal requires the court to allow court documents to be conducted electronically. However, he pointed out that subsection (4) on page 4, lines 91-98, provides exceptions as to when a state governmental agency is not required to conduct a transaction electronically.

After some discussion, it was decided that the committee's concerns with the broad language in the proposal requiring court documents to be transacted electronically be conveyed to the sponsor, and to suggest that court documents be excluded from the proposal or that the courts be allowed to define by court rule which court documents or transactions are incrementally approved for electronic transaction.

The committee will defer taking a position on this proposal until after the committee's concerns are conveyed to the sponsor. This proposal will be revisited at the January 24th Liaison Committee meeting.

8. S.B. 25 - COMMITMENT AND CUSTODY OF ADULTS AND MINORS AMENDMENTS:

This bill clarifies the circumstances under which proceedings for the commitment of a child may be commenced. It modifies provisions relating to the involuntary commitment of adults and children and specifies that they may be committed to local mental health authorities only after a court commitment proceeding. It eliminates provisions relating to the commitment of a child to

the legal custody of the Division of Substance Abuse and Mental Health and clarifies that certain commitment proceedings apply to the commitment of a child to the physical custody of local mental health authorities. It clarifies that a court determination is necessary for a person to be committed to the state hospital.

Mr. Schwermer advised the committee that according to the language on lines 196-202, the juvenile court would not be involved in the commitment process of a child unless the child has first gone through the administrative commitment proceeding and not been committed pursuant to that proceeding. Commitment proceedings for a child can then commence in juvenile court by a written application being filed with the juvenile court.

This bill has been reviewed by the Board of Juvenile Court Judges.

Committee's Position: No position.

9. S.B. 27 - INVOLUNTARY COMMITMENT AMENDMENTS:

This bill modifies the process by which adults are involuntarily committed to mental health programs. It eliminates the "immediate danger" standard and provides for a "substantial danger" standard for the purposes of involuntary commitment. It defines "substantial danger," shortens the time period from 10 days to 5 days in which a hearing must be held when a person is being detained pending a hearing, and requires a report to the Health and Human Services Interim Committee. It modifies the definition of mental illness, limits the new definition solely to involuntary commitments, and requires examiners to inform patients of specific rights.

Mr. Schwermer advised the committee that there will be a large fiscal note attached to this bill for more commitment hearings being required because of the shorten time frame in which a hearing must be held.

Committee's Position: No position.

**10. S.B. 93 - REAPPOINTMENT OF COUNTY JUSTICE COURT JUDGES:
(Judge Jensen)**

This bill eliminates the unopposed retention election for county justice court judges and requires their reappointment by the county legislative body.

The Board of Justice Court Judges has discussed this proposal and is opposed to the bill because it would subject the county justice court judges to political oversight.

Committee's Position: Opposed.

11. S.J.R. 3 - RESOLUTION PROVIDING FOR CONTESTED JUDICIAL ELECTIONS: (Judge Jensen)

This resolution proposes to amend the Utah Constitution to modify the process of selecting justices and judges for courts of record. It eliminates the process of selecting justices and judges by governor appointment from a list provided by the Judicial Nominating Commission and replaces that selection process with nonpartisan election of justices and judges. This resolution directs the lieutenant governor to submit this proposal to voters and provides an effective date.

Committee's Position: Opposed.

12. ACCESS TO CHILD WELFARE PROCEEDINGS (WORKING DRAFT - For discussion Purposes Only)

This working draft proposal would phase in expanded access to abuse, neglect, and dependency hearings and records of those hearings, beginning with two of the eight juvenile court districts. This proposal would essentially make child welfare proceedings presumed open unless the court declares otherwise based on standards for closing a hearing. It would also require the Board of Juvenile Court Judges to report to the legislature on the effects of this act.

This working draft will be presented to the Judicial Council and the Board of Juvenile Court Judges.

Committee's Position: The committee decided to refer this proposal to the Judicial Council for a position.

13. 2003 PLEA WITHDRAWAL: (Judge McIff)

The committee discussed this proposal which provides that a plea of guilty or no contest may be withdrawn only upon a showing that it was not knowingly and voluntarily made.

Committee's Position: The committee decided to refer this proposal to the Judicial Council.

NEXT MEETING:

Friday - January 17, 2003

Noon

Education Room

JUDICIAL COUNCIL LIAISON COMMITTEE

MINUTES

Friday - January 17, 2003

12:00 noon

Administrative Office of the Courts - Education Room

Honorable Jerald Jensen, Presiding

MEMBERS PRESENT:

Hon. Jerald Jensen

Hon. K. L. McIff

Hon. Andrew Valdez (telephone conference)

Hon. Ben Hadfield (telephone conference)

STAFF PRESENT:

Richard Schwermer

Mark Jones

Brent Johnson

Alicia Davis

Dan Becker

Myron March

Sandy Iwasaki

1. WELCOME: (Judge Jensen)

Judge Jensen welcomed everyone to the meeting. Judge Valdez and Judge Hadfield joined the meeting via telephone conferencing.

2. S.B. 44 - TORT REFORM AMENDMENTS: (Judge Hadfield)

This bill provides for the affirmative defense of assumption of risk in tort actions. Judge Hadfield indicated, and the other committee members agreed, that the amendments appear to be strictly policy issues.

Committee's Position: No position.

At this point, Judge Hadfield left the telephone conference to go back to court.

3. CHILD PROTECTIVE ORDER AMENDMENTS (DRAFT): (Judge Valdez)

This proposed bill enacts a new chapter in the Judicial Code regarding child protective orders. It provides for the filing of a petition, notice to the parties, appointment of a guardian ad litem, and hearings. Provision is also made for the review or expiration of the order. The proposal requires that the order be entered into the statewide domestic violence network.

Judge Valdez pointed out that the proposed bill essentially changes the jurisdiction from the district court to the juvenile court concerning ex parte protective orders and protective orders of children. These were previously handled in the district court and the juvenile court was precluded from entering protective orders on behalf of children when filed by a natural or biological parent or stepparent. The proposal will allow the juvenile court to have jurisdiction to hear those cases. The Judicial Council had previously voted to support legislation changing jurisdiction from the adult court to the juvenile court.

Judge Valdez expressed concern with the proposed language in Section 78-3h-102, Subsection (2). Judge Valdez indicated that the proposed language sounds like adjudication language, but it seems to conflict with the language in Section 7-3h-102, Subsection (5), in which the last sentence reads, "A child protective order does not constitute an adjudication of abuse, neglect or dependency under Title 78, Chapter 3a, Part 3, Abuse Neglect and Dependency Proceedings." Judge Valdez noted that it appears that the court will be required to make an immediate finding as to "whether the minor has been abused, sexually abused, neglected or abandoned or is in imminent danger of being abused, sexually abused, neglected or abandoned" upon the filing of a petition and before the court enters an ex parte child protective order. This would be done before the adjudication hearing that must be held within 20 days after the ex parte determination. The judge would be making the finding prior to the 20-day hearing, so Judge Valdez questioned the purpose of the 20-day hearing and suggested that it may invite the possibility of a recusal of the judge because the judge has already made a finding prior to the 20-day hearing. Mr. Brent Johnson responded that the standard for issuing the ex parte protective order and the standard for issuing the final protective order are currently different in the district court. He also stated that judges can make determinations and their judicial decisions are not the basis for disqualification.

The juvenile court judges have concerns that the proposal will result in juvenile court judges having to conduct more hearings, but without additional support or resources. Mr. Schwermer stated that there is no fiscal note because these cases are already within the court system. They are just being transferred from district court to juvenile court.

Committee's Position: It was decided that the committee will support the proposal in concept, but will take another look at the finalized version.

4. APPROVAL OF MINUTES: (Judge Jensen)

Judge Jensen asked for input on the minutes from the January 10, 2003, Liaison Committee meeting. Judge Jensen recommended the following amendments to the minutes. He recommended amending the Committee's Position under Item 12 to read, "The committee decided to refer this proposal to the Judicial Council for a position." He also recommended amending the Committee's Position under Item 13 to read, "The committee decided to refer this proposal to the Judicial Council."

There being no further input, there was a general consensus to approve the minutes from the January 10, 2003, meeting as amended above.

5. S.B. 13 - DUI PLEA RESTRICTIONS: (Judge Jensen)

This bill requires that a court receive verification that the prosecutor agrees to the plea, or that the prosecutor files a criminal information, or that the court receives verification of no prior offenses from a law enforcement agency before the court can accept a plea of guilty or no contest in a driving under the influence of alcohol or drugs case.

Judge Jensen reported that the Board of Justice Court Judges has reviewed and discussed the bill. Mr. Schwermer advised the committee that the Board of Justice Court Judges moved that although it is not enough steps toward public safety, to not oppose the bill because it is a step forward for public safety.

Committee's Position: No position.

6. H.B. 70 - ASSAULT AMENDMENTS: (Judge McIff)

This bill clarifies that the elements of the offense of assault may include an unlawful or violent act that creates a substantial risk of bodily injury or an act that does cause bodily injury.

Committee's Position: No position.

7. H.B. 76 - TRUANCY AMENDMENTS: (Judge Valdez)

This bill clarifies a provision regarding parental response in truancy situations. "It is a class B misdemeanor for a parent to knowingly refuse to cooperate with school authorities in response to a written request which is delivered to the parent pursuant to the provisions of Subsection 53A-11-103(1)(b) by a local school board or school district." The bill also clarifies what is meant by "cooperate with school authorities."

Committee's Position: No position.

8. H.B. 163 - CRIMINAL RESTITUTION AMENDMENTS: (Judge McIff)

This bill modifies the Code of Criminal Procedure provision that allows a victim to recover restitution for wages lost as a result of a crime to include crimes that do not cause physical injury to the victim. Mr. Schwermer advised the committee that this bill may require a fiscal note because there may be an increase in workload as a result of more of these cases being filed.

Committee's Position: No position, but have staff draft a fiscal note for the bill and express caution that the language may be too open-ended.

**NEXT MEETING: Friday - January 24, 2003
Noon**

Council Room

JUDICIAL COUNCIL LIAISON COMMITTEE

MINUTES

Friday - January 24, 2003

12:00 noon

Administrative Office of the Courts - Council Room

Honorable Jerald Jensen, Presiding

MEMBERS PRESENT:

Hon. Jerald Jensen
Hon. K. L. McIff
Hon. Andrew Valdez
Hon. Ben Hadfield (telephone conference)

STAFF PRESENT:

Richard Schwermer
Dan Becker
Myron March
Mark Jones
Brent Johnson
Tim Shea
Sandy Iwasaki

1. APPROVAL OF MINUTES: (Judge Valdez)

Judge Valdez acted as vice-chair on this agenda item until Judge Jensen arrived after being delayed in court. Judge Hadfield joined the meeting via telephone conferencing.

Judge Valdez recommended the following amendments to the minutes from the January 17, 2003, Liaison Committee meeting.

- (1) Amend paragraph 1 on page 2 by adding the phrase, "when filed by a natural or biological parent or stepparent," at the end of the second sentence so that the sentence would read, "These were previously handled in the district court and the juvenile court was precluded from entering protective orders on behalf of children when filed by a natural or biological parent or stepparent."
- (2) Add the following sentence at the end of paragraph 1 on page 2: "The Judicial Council had previously voted to support legislation changing jurisdiction from the adult court to the juvenile court."
- (3) Change the word "must" in the third sentence of paragraph 2 on page 2 so that the sentence reads, "Judge Valdez noted that it appears that the court will be required to make an immediate finding as to"
- (4) Delete the word "However" at the beginning of the fourth sentence of paragraph 2 on page 2 and add the word "adjudication" before "hearing" so that the sentence

reads, "This would be done before the adjudication hearing"

Motion: Judge McIff moved to approve the minutes from the January 17, 2003, Liaison Committee meeting as amended above by Judge Valdez. Judge Hadfield seconded the motion. The motion carried.

**2. S.B. 29 - LEGISLATIVE ACCESS TO CERTAIN INFORMATION:
(Richard Schwermer)**

This bill amends provisions in the Revenue and Taxation Code and Judicial Code to allow for audit by the Office of the Legislative Auditor General. Mr. Schwermer reported that S.B. 29 (sponsored by Senator Mike Dmitrich) may be considered a companion bill to H.B. 96 (sponsored by Representative Katherine M. Bryson) dealing with the issue of access by the Office of the Legislative Auditor General to Judicial Conduct Commission records. Mr. Schwermer noted that the language in S.B. 29 regarding access to the Judicial Conduct Commission records had been drafted by Mr. Colin Winchester, Executive Director of the Judicial Conduct Commission, based on the Supreme Court's order on the access issue.

Judge McIff questioned the language on line 222. He asked if the word "easily" is the proper word to use. The committee discussed the use of the word "easily" because it seemed to be unusual legislative language.

Committee's Position: No position, but recommend striking the word "easily" from line 222.

**3. H.B. 96 - JUDICIAL CONDUCT COMMISSION AMENDMENTS:
(Judge McIff)**

This bill modifies provisions pertaining to the Judicial Conduct Commission. It allows for the disclosure of commission information to the Legislative Auditors during the course of a legislative audit.

The committee discussed substituting "Legislative Auditor General" for "Legislature" on line 119 because the records should not be going to the Legislature. The committee also discussed comments made by Judge Scott Johansen.

Committee's Position: No position, but recommend replacing the word "Legislature" with the phrase "Legislative Auditor General" on line 119.

Mr. Schwermer advised the committee of other bills that may be introduced this legislative session regarding judicial conduct issues.

4. S.B. 111 - PROCESS SERVERS: (Judge McIff)

Judge McIff reported that this bill provides that private investigators may serve all forms of process issued by a court except writs of execution, bench warrants, and any criminal process. Judge Hadfield questioned the use of the term "bench warrants" on line 25. He questioned if this term covers every kind of arrest warrants issued by the court. Mr. Johnson recommended

changing the term “bench warrants” to “arrest warrants” because all bench warrants are arrest warrants, but not all arrest warrants are bench warrants.

Committee’s Position: *No position, but recommend changing the term “bench warrants” to “arrest warrants.”*

5. S.B. 116 - DNA - AMENDMENT REGARDING WARRANTS: (Judge Hadfield)

This bill modifies the Criminal Code by removing the statute of limitations on certain violent crimes when DNA evidence has been collected that can be used to identify the perpetrator.

Committee’s Position: *No position.*

6. H.B. 85 - HATE CRIMES AMENDMENTS: (Judge Hadfield)

This bill modifies the Criminal Code by providing for enhanced penalties due to the defendant’s selection of the victim because of the defendant’s bias or prejudice toward a group. This bill defines the group. It provides that the trier of fact may not base a finding that the defendant acted because of a bias or prejudice solely on evidence of a defendant’s mere beliefs, associations, or expressions. It allows the court to impose alternative sentencing provisions in cases subject to the enhanced penalties. It repeals the current state “hate crimes” statute. The committee discussed the bill.

Committee’s Position: *No position.*

7. H.B. 93 - SUSPENSION OF DRIVING PRIVILEGES FOR HABITUAL TRUANTS: (Judge Valdez)

This bill modifies provisions in the Juvenile Code relating to dispositions. It provides that a minor found habitually truant by the juvenile court may have his driving privileges suspended for a year or delayed in the case of a minor not yet eligible to drive. Judge Valdez reported that this bill provides a new discretionary disposition option for the juvenile court. Mr. Schwermer advised the committee that he received comments that the language in the bill designates the time that the court can suspend or delay the driving privilege of a habitual truant as one year, but that the judge may want the discretion to order less time. It was decided that the language in the bill should be changed to say “up to one year” rather than “one year.”

Committee’s Position: *Support the bill, but recommend changing the designated time from “one year” to “up to one year.”*

8. H.B. 201 - JUDICIARY AMENDMENTS: (Judge Jensen)

Judge Jensen reported that this bill modifies the Code of Criminal Procedures by allowing bail to be posted by credit and debit card in addition to cash and written undertakings. Mr. Schwermer advised the committee that this is a Judicial Council bill.

Committee's Position: Support the bill.

9. H.J.R. 7 (1st Substitute) - RESOLUTION ON SPECIAL SESSIONS OF THE LEGISLATURE: (Judge McIff)

This joint resolution of the Legislature proposes to amend the Utah Constitution to authorize the Legislature to call itself into session, which is a right currently reserved for the Governor. It authorizes the Governor to add legislative business to a session called by the Legislature and authorizes the Legislature to add legislative business to a session called by the Governor. It requires advance notice of legislative business in a session convened by the Legislature, with certain exceptions. It prohibits a session to be convened by the Legislature within a specified period after an annual general session and it limits the total number of days per year of sessions convened by the Legislature. It makes conforming changes and clarifying changes, directs the lieutenant governor to submit the proposal to the voters, makes technical changes, and provides an effective date. Judge McIff noted that this resolution is a fundamental constitutional change.

Committee's Position: No position.

10. OTHER BUSINESS:

Mr. Schwermer gave updates on previous proposals reviewed by the Liaison Committee.

Access to Child Welfare Proceedings

It appears that an amended draft of the proposal would provide for a pilot program making child welfare proceedings presumed open. The effective date would be November 1, 2003, and the Judicial Council will designate the pilot district(s).

S.B. 93 - Reappointment of County Justice Court Judges

Mr. Schwermer advised the committee that this bill is scheduled to be on the agenda of the Senate Judiciary Committee for next Tuesday (January 28, 2003).

NEXT MEETING:

**Friday - January 31, 2003
12:00 Noon
Council Room**

There being no further business to discuss, the meeting adjourned at 1:30 p.m.

JUDICIAL COUNCIL LIAISON COMMITTEE

MINUTES

Friday - January 31, 2003

12:00 noon

Administrative Office of the Courts - Council Room

Honorable Jerald Jensen, Presiding

MEMBERS PRESENT:

Hon. Jerald Jensen

Hon. K. L. McIff

Hon. Ben Hadfield

MEMBER EXCUSED:

Hon. Andrew Valdez

GUEST:

Chief Justice Christine Durham

STAFF PRESENT:

Richard Schwermer

Dan Becker

Myron March

Mark Jones

Brent Johnson

Tim Shea

Ray Wahl

Sandy Iwasaki

1. WELCOME/APPROVAL OF MINUTES: (Judge Jensen)

Judge Jensen welcomed everyone to the meeting and asked for a motion on the minutes from the January 24, 2003, Liaison Committee meeting.

Motion: Judge Hadfield moved to approve as written the minutes from the January 24, 2003, Liaison Committee meeting. Judge McIff seconded the motion. The motion carried unanimously.

2. S.B. 79 (1st Substitute) - DISABLED PARKING FEE (Sponsor - D. Chris Buttars): (Judge Jensen)

This bill increases the fine for parking in a disability parking zone from \$100 to \$200 and for parking in a school bus parking zone from \$50 to \$100. It requires district courts and justice courts to allocate 50% of the fine collected for a disability parking zone violation in the Out and About Homebound Transportation Assistance Fund and to allocate the remaining 50% of the fine as currently required. Mr. Schwermer indicated that if the bill is enacted, there will be a one-time cost of approximately \$3,000 to the courts for automation programming to implement the requirements of the bill.

Committee's Position: No position.

**3. S.B. 128 - PROTECTIVE ORDER AMENDMENTS (Sponsor - Lyle W. Hillyard):
(Richard Schwermer)**

This bill enacts a new chapter in the Judicial Code regarding child protective orders. It provides for the filing of a petition, notice to the parties, appointment of a guardian ad litem, and hearings. Provision is also made for the review or expiration of the order. The bill requires that the order be entered into the statewide domestic violence network.

Mr. Schwermer advised the committee about the changes made to the proposal since the committee had previously reviewed the draft of the proposal. Senator Hillyard, sponsor of the bill, made the following changes. On line 44 of page 2, the word "reasonable" was added. A new section was added on page 8, lines 224-227. The new section reads, "When a protective order exists and a divorce proceeding is pending between the same parties named in the protective order, the protective order shall be dismissed when the court issues a decree of divorce for the parties unless the court specifically finds that the order needs to be continued." After the committee discussed the intention of this section, it was decided that the word "expire" should be used rather than "dismissed" on line 225.

Committee's Position: Support and suggest changing "dismissed" to "expire."

**4. S.B. 132 - CHILD SUPPORT AND PATERNITY AMENDMENTS
(Sponsor - Lyle W. Hillyard):**

This bill modifies provisions relating to paternity and child support. It provides definitions for "declarant father" and "presumptive father" and allows for a declaration of paternity by a declarant father even if a presumptive father exists, allows for registration of the declaration, and provides for the modification of a divorce decree or child support order after paternity is determined. It modifies provisions for reimbursement by a child's parents if the child is removed from a home and the juvenile court finds that the allegations were insufficient. It modifies child support and parent-time provisions by clarifying provisions relating to deviations from the child support guidelines, and allowing for reductions in child support for extended parent-time.

Mr. Schwermer advised the committee that he had not received much in comment from the juvenile court judges or anyone else regarding the bill.

Committee's Position: No position at this time.

**5. H.B. 104 - DISPOSAL OF EVIDENCE IN CRIMINAL PROCEEDINGS
(Sponsor - J. Stuart Adams): (Judge Hadfield)**

This bill modifies the Code of Criminal Procedure provisions regarding disposal of property received by a peace officer by amending provisions for returning property to an owner to reflect the role of the agency's evidence custodian in the process.

Committee's Position: No position.

6. H.B. 107 - DNA AMENDMENTS (Sponsor - J. Stuart Adams): (Judge McIff)

This bill modifies the Public Safety Code regarding the collection of DNA samples from offenders. It specifies that offenders incarcerated or on parole in this state for an applicable offense committed outside the state, and offenders who have committed immigration violations, must also provide a DNA specimen. It further specifies those offenders from whom the county sheriff is to collect a DNA specimen. It changes DNA specimen records from private to protected information. It provides that fingerprints of juveniles shall be taken if the juvenile has committed an offense where a DNA specimen is required. It makes technical amendments regarding the operation of the DNA sample collection process.

Committee's Position: No position, but express appreciation for amendments made.

7. H.B. 112 - COUNTY CORRECTIONAL FACILITY REIMBURSEMENT (Sponsor - Brad L. Dee): (Judge Hadfield)

This bill modifies the Criminal Code and Code of Criminal Procedure to provide the courts and county correctional facilities a process for ordering and collecting restitution of costs for incarcerating offenders in county correctional facilities under specified circumstances.

The committee discussed concerns with the bill. It was noted that the bill narrows the judge's sentencing discretion by requiring the court to "order the defendant to pay restitution to the county for the cost of incarceration in the county correctional facility before and after sentencing."

Mr. Johnson indicated that the bill refers to the reimbursement as restitution, but in his opinion it should be considered a cost rather than restitution. He suggested that the statute dealing with costs that the court can order could be amended to include this reimbursement which would give the court more discretion.

Mr. Schwermer pointed out that this bill should have a fiscal note attached.

Committee's Position: No position at this time, but express concerns to the sponsor and suggest that it should have a fiscal note attached.

8. H.B. 117 - PRELITIGATION PANEL AMENDMENTS (Sponsor - Margaret Dayton): (Judge Hadfield)

This bill modifies provisions relating to prelitigation panels in medical malpractice actions. It allows the panel's results to be introduced in an ensuing court action with explanations.

Chief Justice Durham advised the committee that this bill appears to impinge on the Supreme Court's rule-making power with regards to the Rules of Evidence and it also impinges on the separation of powers in that it purports to be a legislative determination of an extra judicial process being allowed to be imported automatically into the judicial process.

Committee's Position: Opposed as proposed.

**9. H.B. 230 - PARENTAL RELOCATION AMENDMENTS
(Sponsor - Mike Thompson): (Judge Hadfield)**

This bill creates a requirement that divorced or separated parents provide a notice of relocation to the other parent before moving or leaving the state. The notice shall be signed and acknowledged by both parents. It also provides that violations of the provisions of the notice are prosecutable under the provisions of custodial interference.

There were concerns expressed with one parent having veto power over another parent's right to relocate. This bill will require a fiscal note because this bill will make it a third degree felony if one parent does not provide notice of relocation to the other parent before leaving the state.

Committee's Position: No position, but express concerns.

**10. H.B. 234 - ADMINISTRATIVE TREATMENT OF TRAFFIC VIOLATIONS -
TECHNICAL AMENDMENTS (Sponsor - David N. Cox): (Judge Jensen)**

This bill makes technical changes related to an earlier repeal of a provision regarding civil penalties and adjudication for a moving traffic violation within a municipality. Mr. Schwermer advised the committee that this bill deletes any references to Section 10-3-703.5 which had been repealed last legislative session.

Committee's Position: Support.

**11. H.B. 238 - UTAH CODE OF CRIMINAL PROCEDURE AMENDMENTS
(Sponsor - Katherine M. Bryson): (Judge McIff)**

This bill clarifies provisions of the Code of Criminal Procedure relating to the withdrawal of guilty pleas, expert testimony, suspension of sentences, and the filing of investigation records. The committee discussed the bill and expressed concerns that this bill would amend the rule and overturn case law.

Committee's Position: Opposed because this should be treated in the rule-making context rather than as a statute.

**12. H.J.R. 3 - OFFER OF JUDGMENT IN SETTLEMENT OF CASES RESOLUTION
(Sponsor - John Dougall): (Judge McIff)**

This joint resolution modifies the Utah Rules of Civil Procedure by providing for attorneys' fees with costs that can be assessed in a civil action. It allows costs and attorneys' fees to be assessed

if a final award is not more favorable than the offer of judgment. It provides an effective date.

Committee's Position: No position.

13. JUDICIAL CONDUCT COMMISSION (1/30/03 DRAFT): (Richard Schwermer)

Mr. Schwermer advised the committee that this proposal is being discussed with Senator David L. Thomas because he has issues with the Judicial Conduct Commission's use of private reprimands of judges. This proposal is an attempt to limit the Judicial Conduct Commission's discretion to use private or informal reprimands as a dispositional alternative. Senator Thomas is also the sponsor of S.J.R. 3 (Resolution Providing for Contested Judicial Elections) which the Liaison Committee opposes.

There were concerns expressed with the term "technical violation" in reference to the "judicial canons of conduct" on lines 40-41. It is unclear what would be deemed as a "technical violation" of the "judicial canons of conduct."

There were also concerns expressed with (7)(b)(i) on lines 52-54 which reads, "(i) the nature of the complaint and findings of the Commission shall be publicly disclosed and shall appear in the voter information guide each time the judge stands for retention election." There was concern with the permanent disclosure of the "nature of the complaint and findings of the Commission."

Committee's Position: Opposed as proposed, but encourage the following changes be made:

- (1) the permanent disclosure provision on lines 52-54 be removed; and***
- (2) the "technical violation" language be removed from lines 40-41.***

14. H.B. 201 - JUDICIARY AMENDMENTS (Update): (Richard Schwermer)

Mr. Schwermer reminded the committee that this bill would allow bail to be posted by credit or debit card in addition to cash and written undertakings. Mr. Schwermer advised the committee that there will now be a substitute bill that says that bail can be paid by: (a) cash, (b) written undertaking approved by the magistrate, or (c) credit or debit card at the discretion of the magistrate or bail commissioner. This would give the jails and courts discretion in taking credit or debit cards for bail.

**15. SENATOR VALENTINE'S PROPOSAL OF PUBLIC HEARINGS FOR JUDGES
STANDING FOR RETENTION ELECTION:
(Richard Schwermer)**

Mr. Schwermer explained to the committee that Senator Valentine is proposing a statutory amendment that will provide for a public hearing to be held before the Voter Information Pamphlet is published each election year. The public hearing would allow anyone with information or concerns to testify about the judges up for retention election that year. The end result would be either an affirmative or a negative recommendation from the Senate for each judge up for retention election for that year being noted in the Voter Information Pamphlet.

Mr. Schwermer had expressed concerns with this proposal, particularly related to the nature of the complaints that would be heard, the standard and process for vetting those concerns, and the likely inability of judges to defend themselves against those criticisms due to ethical constraints.

After considerable discussion of this proposal, the committee took a position.

Committee's Position: *Oppose in concept, but continue discussion of the proposal with the sponsor.*

16. H.B. 119 - JUDICIAL CONDUCT COMMISSION REVISIONS
(Sponsor - Katherine M. Bryson): (Richard Schwermer)

This bill modifies provisions pertaining to the Judicial Conduct Commission and provides that a judge formally charged with a crime may be suspended without pay by the Supreme Court. It requires the administrator of the courts to withhold all employer and employee contributions for the duration of the administrative leave or suspension. It requires that a judge who is acquitted and reinstated to judicial office to receive pay and benefits lost during the suspension. It also provides circumstances under which the Supreme Court may suspend or remove a judge on its own motion.

After considerable discussion of this bill, it was decided as follows.

Committee's Position: *It was decided that Chief Justice Durham would confer with her colleagues on this bill because it pertains to Supreme Court authority, and this bill will be revisited at the February 7th Liaison Committee meeting. The committee supports the concept of the discretion for the Supreme Court to order suspension without pay as an alternative for criminal conduct, but the committee opposes the mandatory benefits suspension and the broad removal authority for the Supreme Court.*

NEXT MEETING: **Friday - February 7, 2003**
 12:00 Noon
 Council Room

There being no further business to discuss, the meeting adjourned at 3:00 p.m.

JUDICIAL COUNCIL LIAISON COMMITTEE

MINUTES

Friday - February 7, 2003

12:00 noon

Administrative Office of the Courts - Council Room

Honorable Jerald Jensen, Presiding

MEMBERS PRESENT:

Hon. Jerald Jensen
Hon. K. L. McIff
Hon. Ben Hadfield
Hon. Andrew Valdez (telephone conference)

GUESTS:

Chief Justice Christine Durham
Hon. Darwin Hansen

STAFF PRESENT:

Richard Schwermer
Dan Becker
Myron March
Brent Johnson
Ray Wahl
Sandy Iwasaki

1. WELCOME/APPROVAL OF MINUTES: (Judge Jensen)

Judge Jensen welcomed everyone to the meeting and asked for a motion on the minutes from the January 31, 2003, Liaison Committee meeting.

Motion: Judge Hadfield moved to approve as written the minutes from the January 31, 2003, Liaison Committee meeting. The motion was seconded and carried unanimously.

2. H.B. 222 - CHILD WELFARE PROCEEDINGS AMENDMENTS: (Judge Valdez)

This bill phases in expanded access to abuse, neglect, and dependency hearings and records of those hearings, beginning with Juvenile Court districts identified by the Judicial Council as pilot districts. It requires the Judicial Council to report to the Legislature on the effects of this act. It includes revisors instructions.

Judge Valdez advised the Committee that this legislation has been endorsed in concept by the Standing Committee on Children and Family Law and the Judicial Council. The Board of Juvenile Court Judges has opposed the legislation because of concerns that the bill does not adequately protect the rights of children. However, Judge Valdez pointed out that lines 191-195 of the bill gives judicial discretion to close the hearings.

Mr. Schwermer reported that the Judicial Council had suggested conducting one presumed open pilot and one presumed closed pilot for comparison. The sponsor rejected this suggestion and is proposing a presumed open pilot only. Other suggestions made by the Judicial Council were accommodated by the sponsor: (1) that the Council have discretion in identifying the pilot district(s) and (2) that the starting date be changed to a later date.

Judge Valdez indicated that lines 138-141 requires the Judicial Council to report "to the Child Welfare Legislative Oversight Panel and the Judiciary Interim Committee on the effects of this act and recommend whether the provisions of this act should be continued, modified, or repealed." Judge Valdez noted that without funding for an intensive study, an in depth report could not be done. Mr. Schwermer commented that grant funds may be sought to evaluate the pilot program. If there are no funds available, then reporting information will be limited.

Committee's Position: No position.

3. JUDICIAL CONDUCT COMMISSION REVISION ISSUES: (Judge Darwin Hansen and Liaison Committee Discussion)

Judge Darwin Hansen joined the Liaison Committee to discuss issues pertaining to proposed revisions to the Judicial Conduct Commission. Judge Hansen is a member of the Judicial Conduct Commission.

Mr. Schwermer distributed copies of a draft of a proposal (dated 2/7/03) that would amend Section 78-8-107 regarding the authority of the Judicial Conduct Commission. Judge Hansen expressed concerns with aspects of the revisions being proposed as they relate to constitutional issues for judges.

Lines 35-41 of the proposal deals with private reprimands and reads as follows:

- (3) An informal order of reprimand may only be issued if:
 - (a) a Notice of Formal Proceedings has not yet been served on the judge;
 - (b) no previous informal order of reprimand has been issued against the judge during the judge's current term of office;
 - (c) the judge admits to the misconduct; and
 - (d) the misconduct does not constitute a substantial violation of the judicial cannons of conduct.

Judge Hansen expressed opposition to the draft proposal because this proposal does not allow for an informal or private reprimand after a formal proceeding has been conducted and it does not allow for due process. According to the proposal, if the judge elects his constitutional right to a formal hearing and if at the end of the hearing the complaint is not dismissed, then the judge is not entitled to a private sanction. The sanction would be made public.

Judge Hansen pointed out that on line 135 of H.B. 119 (Judicial Conduct Commission Revisions) the word "formal" has been inserted so that the sentence reads, "(6)(a) After the hearing or after considering the record and report of the masters, if the commission finds by a preponderance of

the evidence that misconduct occurred, it shall order the formal reprimand, censure, suspension, removal, or involuntary retirement of the judge.” In his opinion, this would in effect require a public reprimand rather than a private reprimand because the word “formal” has been added.

Judge Hansen informed the Committee on statistics of complaint dismissal rates of other states compared to Utah. Some of those dismissal rates are as follow: California - 94%, Colorado - 99%, Idaho - 95%, Nevada - 96%, Oregon - 98%, Washington - 92%, Western States Average - 96%, Utah - 82%, National Average - 89%. Judge Hansen indicated that these statistics would suggest that the Judicial Conduct Commission in Utah is currently less lenient than in other states.

Mr. Schwermer gave an update on the status of H.B. 119. He advised the Committee that the House Judiciary Committee met yesterday and voted down H.B. 119 by a vote of 8 to 4. The House Judiciary Committee, however, made two amendments to the proposed bill. The words “rebut the allegations” were replaced with the words “be heard” on lines 45-46 so that the sentence reads, “(b) The Supreme Court shall provide notice to the judge and an opportunity to be heard.” On line 58 and in other places in the bill where it refers to “with, without, or with reduced pay,” the House Judiciary Committee deleted the words “with reduced” so that the Supreme Court can place a judge on administrative leave with or without pay only. Mr. Schwermer indicated that this bill may still be put back on the House Judiciary Committee agenda.

Chief Justice Durham reported that she has discussed the provisions on lines 37-46 of H.B. 119 with her colleagues. After the discussion, she and her colleagues agree that they would like to have the proposal postponed for a year so that more time can be spent to discuss the proposal. Some of the opposition expressed by the Supreme Court to H.B. 119 is that: (1) the bill does not contemplate staffing or investigatory support for the Supreme Court to act; (2) it basically creates a third disciplinary system under the sole supervision of the Supreme Court and (3) there is the constitutional concern of granting judges administrative leave without pay in view of the constitutional provision that states that the compensation for judges cannot be reduced during their term of office.

Before Judge Hansen left the meeting, he reiterated his concerns with lines 35-41 of the 2/7/03 Draft Proposal:

- (a) This restricts a judge’s right to a private reprimand if the Notice of Formal Proceedings has been served, which does not allow for due process.
- (b) This restricts a judge’s right to a private reprimand if a previous informal order of reprimand has been issued against the judge during the judge’s current term of office. Judge Hansen would prefer not having this restriction, but he said restricting it to one informal reprimand per term would not be unreasonable.
- (c) An informal order of reprimand may be issued if the judge admits to the misconduct would in effect mean that the private reprimand can only occur prior to a formal hearing because if the judge acknowledges the misconduct, there will be no hearing.
- (d) This restriction is hard to define.

After considerable discussion, the Liaison Committee took the following positions.

H.B. 119

Committee's Position: Opposed.

2/7/03 Draft of Proposal to Amend Section 78-8-107

Committee's Position: Express concerns with the restrictions in (a) and (c) on lines 35-41.

Judge Valdez left the telephone conference to go back to court.

4. H.B. 239 - PARENT-TIME ASSISTANCE OFFICE: (Judge Hadfield)

This bill creates a Parent-time Assistance Office. It sets out the duties of the office and allows for coordination with law enforcement, the attorney general, and the Office of Recovery Services. It also provides for agency action under the Administrative Procedures Act and allows the office to help a person fill out court-related documents once the office can no longer effectively help the person. This act raises certain court fees and creates a restricted account to fund the office. It provides an effective date.

Committee's Position: No position, but express concern with line 100 which states that the "office may also order make-up parent-time at up to twice the amount denied" because this would be modifying the divorce decree.

5. S.B. 67 - REVISIONS TO BOARDS AND COMMISSIONS: (Richard Schwermer)

This bill modifies certain state boards and commissions. It repeals certain boards and modifies the appointment requirements or the duties and responsibilities of other boards. It requires the Occupational and Professional Licensure Review Committee to study the possible repeal of, combination of, or modifications to certain licensing boards and whether or not certain occupations should be licensed by the state.

Mr. Schwermer advised the Committee that line 356 gives the courts the responsibility to regulate certified shorthand reporters. The Committee expressed concern with the possibility that the courts may be given the responsibility of regulating the certified shorthand reporters when not all certified shorthand reporters do business with the courts.

Committee's Position: No position, but express concern with the possibility of the courts regulating the certified shorthand reporters since not all certified shorthand reporters do business with the courts and the courts do not regulate any other private groups.

**6. S.B. 136 - GUILTY AND MENTALLY ILL SENTENCING AMENDMENTS:
(Judge McIff)**

This bill modifies the Code of Criminal Procedure by providing that in specified circumstances a defendant found to be guilty and mentally ill may be sentenced to a county jail. It also clarifies existing language regarding procedure.

Committee's Position: No position.

**7. S.R. 6 - SENATE RULES RESOLUTION - SENATE CONFIRMATION
PROCESS: (Richard Schwermer)**

This resolution modifies Senate Rules by modifying procedures governing the Senate Judicial Confirmation Committee. This resolution requires each judicial appointee to be interviewed by the confirmation committee. It establishes requirements for the distribution and review of appointees, resources, application materials, and other related documents. This resolution takes effect immediately.

Mr. Schwermer advised the Committee that this Senate Rules Resolution was passed this morning so it is now law.

**NEXT MEETING: Friday - February 14, 2003
 12:00 noon
 Council Room**

There being no further business to discuss, the meeting adjourned at 2:10 p.m.

TAB 3

Dear New Judge:

Welcome to the bench! On behalf of the Administrative Office of the Courts, I would like to extend our congratulations and hope you find service as a member of the State Judiciary both challenging and rewarding.

At this point, you will no doubt have a lot of questions. It is our goal to facilitate the smoothest transition possible for you in your role as a judge. The attached materials are being sent to you as a first step in your orientation. The information attached and more detail can be found on the court's website (www.utcourts.gov/newjudgeorientation. Login: newjudge, Password: justice). Our orientation process also includes a formal Mentor Program, a New Judge Orientation program, orientation within your district, and an out-of-state orientation program.

Please don't hesitate to contact me or any of the individuals in our office for assistance of any kind. I am looking forward to working with you, and personally welcome you to the bench.

Sincerely,

Daniel J. Becker
State Court Administrator

Attachment

Utah State Courts

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New Judge Orientation

You are currently here: [Home](#) --> New Judge Orientation

Mission Statement

The mission of the Utah Courts is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

Welcome to the Utah Court System. We have organized these resources on the court's webpage so that new judges and commissioners can access them quickly and easily.

The formal orientation process for new judges is a multi-faceted process. Directly following appointment, a letter is sent directing the new judge to this page for information.

Approximately three weeks following appointment, the new judge will receive an additional packet of materials from the Administrative Office, including your court-level benchbook. Other orientation will be provided by your district.

A New Judge Orientation program is generally held each year. Contact the Director of Education at the Administrative Office for more information on this program, as well as information on any out-of-state training.

Orientation Information for New Judges

[Overview of the Utah Court System](#)

[Court Governance and Administrative Support Structure](#)

[Summary of Judicial Benefits](#)

[Judicial Travel](#)

[Judicial Education Requirements](#)

[Code of Judicial Conduct](#)

[Ethics Advisory Committee](#)

[Ethics Advisory Opinions](#)

[Appellate Opinions](#)

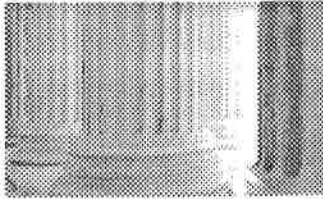
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Mission Statement

The mission of the Utah Courts is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.



Court Organization

Learn more about organization of the courts.

Court Governance

Learn more about the governing bodies of the courts.

Supreme Court

The Supreme Court is the "court of last resort" in Utah. The court consists of five justices who serve ten-year renewable terms.

Court of Appeals

The Utah Court of Appeals, created in 1987, consists of seven judges who serve six-year renewable terms.

District Courts

The District Court is the state trial court of general jurisdiction. There are 70 full-time district judges serving in the state's eight judicial districts.

Juvenile Courts

The Juvenile Court is a court of special jurisdiction. It includes 25 full-time judges and one commissioner. The Juvenile Court is of equal status with the District Court.

Justice Courts

Justice Courts are established by counties and municipalities and have the authority to deal with class B and C misdemeanors, violations of ordinances, small claims, and infractions committed within their territorial jurisdiction.

Judges Biographies

Learn more about Utahs' Judges.

Court Organization

How the Courts Are Organized

The Utah State Court System is comprised of two appellate courts- the Supreme Court and Court of Appeals; trial courts including the District, Juvenile, and Justice Courts; and two administrative bodies- the Judicial Council and the Administrative Office of the Court. District, Juvenile and Justice courts are located in each of the state's eight judicial districts. If you are uncertain of which district you live in, use the [Judicial District Locator Map](#). Choose a link below to learn more about the court system.

Courts

[Utah Supreme Court](#)
[Utah Court of Appeals](#)
[District Court](#)
[Juvenile Courts](#)
[Justice Courts](#)

Court Governance

[Utah Judicial Council](#)

Administrative Support

[Administrative Office of the Courts](#)

Check out the [Gallery of Judges](#) to learn about the judges in each court.

Then find out [how judges are selected and their performance is evaluated](#).

The Code of Judicial Conduct and judicial ethics opinions guide the conduct of Utah's judges. [Click here to review the Code of Judicial Conduct and judicial ethics opinions](#).

The Judicial Conduct Commission exists to review complaints alleging unethical conduct of judges. [Click here for more information](#).

The Utah State Archives website includes histories of the courts in Utah.

[Click here to see what is available](#).

Attention Teachers and Students

Your Day in Court

A Manual for Teachers and Students Visiting the Utah State Court Facilities

is a publication used in elementary and secondary schools as a guide when studying the Utah court system in law-related education classes and when preparing to visit the courts. It was developed by the Utah Law-Related Education Project (www.amsquare.com/lre) and the Administrative Office of the Courts.

Download in [WordPerfect](#) , [Word](#) or [.PDF](#) format

If you need to know the meaning of a legal term, check out our [Glossary of Legal Terms](#).

Court Rules The rules used in Utah Courts are updated on a semi-annual basis. Check out the rules and the most recent changes.

Court Governance

Utah Judicial Council

The Utah Judicial Council is the policy-making body for the judiciary. It has the constitutional authority to adopt uniform rules for the administration of all the courts in the state. The Council also sets standards for judicial performance, court facilities, support services, and judicial and non-judicial staff levels.

The Council consists of fourteen members. The Chief Justice of the Supreme Court chairs the Council. The other members include: a Supreme Court Justice; a judge of the Court of Appeals; five District Court judges; two Juvenile Court judges; three Justice Court judges; a state bar representative; and the State Court Administrator, who serves as secretariat to the Council. The judges serve three-year terms, and the state bar representative also serves three years. List of current Judicial Council members.

By rule, the Judicial Council established a Board of Judges for each level of court. Boards of Judges adopt administrative rules in accordance with the guidelines of the Council, advise the Council, supervise the implementation of Council policies and serve as liaisons between judges and the Council.

Members of Board of Appellate Court Judges

Members of Board of District Court Judges

Members of Board of Juvenile Court Judges

Members of Board of Justice Court Judges

Members of Board of Senior Judges

The Judicial Council holds monthly meetings throughout the state. All the meetings are open and may be attended by interested parties. They provide an opportunity for other branches of government, federal agencies, and citizens to present issues and concerns directly to the judiciary.

Judicial Council Meeting Minutes

Judicial Council Meeting Schedule

The Administrative Office of the Courts

The Court Administrator Act, passed in 1973 and revised in 1986, provides for the appointment of a State Court Administrator, an individual with professional ability and experience in the field of public administration and an understanding of court procedures and services. The State Court Administrator is assisted by a Deputy Administrator, District, Juvenile, and Justice Court Administrators, trial court executives, and management personnel in the following areas: Human Resources, Public Information, Planning and Research, Finance, Information Technology, Information Services, Audit and General Counsel. The Administrative Office of the Courts serves as staff to the Judicial Council, rules committees, boards of judges, standing and ad hoc committees, and nominating commissions and provides support to Clerks of Court and Trial Court Executives throughout the state.

Summary of Judicial Benefits

Summary of Judicial Benefits Fiscal Year 2002 - 2003

JUDICIAL BENEFITS

Retirement Benefits

Judges Retirement System: The Judges Retirement System is a non-contributory, defined benefit plan that qualifies as a tax-deferred plan under Internal Revenue Code Section 401(a). The state contributes an amount equal to a specified percentage of your salary toward the retirement system each year. The percentage varies from year to year based upon actuarial studies. A percentage of certain court fees is also used to fund the judges retirement plan. Judges are eligible to retire at any age with 25 years of service, at age 62 with 10 years of service or at 70 with 6 years of service.

Defined Contribution Plans: The State offers two plans which allow you to defer salary and thus reduce your gross taxable income: the 457 and 401(k) plans. If you decide to participate in either plan, the money you contribute will be deducted from your gross salary prior to taxes. You may participate in one or both of these programs but contributions to both plans may not exceed \$12,000 for calendar year 2003. More detailed information is available through the State Retirement Office and the Human Resources Department.

Health Insurance

The State offers insurance programs for health, dental, life, vision, disability, and accident. Various programs are available to meet diverse judicial staff needs. The following is a summary of the different insurance plans available. For specific details, please refer to plan brochures.

You must enroll in health and dental programs **within 60 days** of employment. Insurance coverage is effective with the first payroll deduction. Generally, this takes about two weeks. There is an open enrollment period each May during which medical and dental plan changes can be made. Changes in dental plans can only be made during the open enrollment period each May. The Public Employees Health Plan (PEHP) allow one additional opportunity to make a medical plan change during the fiscal year.

Your premium contributions to health care plans are taken as pre-tax dollars.

Medical Plans - effective 7/1/02

There are four medical plans available to judges, depending upon where you reside: PEHP (Public Employees Health Plan) Preferred Care Plan, PEHP Summit Care Plan, PEHP Exclusive Care Plan and PEHP Comprehensive Care Plan (for judges in rural areas).

PEHP Preferred Care: This plan requires you to use doctors that are part of the preferred care group, who have proven records of efficient care and who will accept PEHP's fee schedules. You must pay a co-payment amount for doctor and office visit procedures and the plan pays the remainder of the costs. ***You may swing out of this plan and use a non-preferred physician, however, it is your responsibility to negotiate with your doctor to accept the preferred care rate or you will be responsible for the balance.*** Your premium contribution for this plan is approximately 7% of the total premium.

PEHP Summit Care Plan: This is an HMO plan that requires you to use Summit Care providers. For each doctor's visit, you pay a varying copay for each type of coverage. This plan includes physicals, well-child care, immunizations, hearing and eye exams and eyeglasses, with varying co-payments. This program is available in a limited area ranging from Logan to Spanish Fork/Payson. Your premium contribution to this plan is approximately 2% of the total premium.

IHC Network: PEHP Exclusive Care is offered through the IHC Network and requires you to use doctors that are part of the IHC network. You pay a copayment amount for doctor and office visits and the plan usually pays the remainder of the costs. Your premium contribution to this plan is approximately 2% of the total premium.

Dental Plans - effective 7/1/02

There are three dental programs available to judges: PEHP Traditional, PEHP Preferred, and Dental Select.

PEHP Traditional Dental Care: This coverage pays 80% for most procedures. It pays 50% for prosthetics (bridges, dentures, crowns) up to a \$1,500 lifetime maximum per person. Your premium contribution to this plan is approximately 20% of the total premium.

PEHP Preferred Dental Care: This coverage pays 80% for most procedures. After a 6 month waiting period, it will pay 50% for prosthetics and orthodontics. Orthodontia is subject to a \$1,500 lifetime maximum per person. A preferred provider must be used, or no benefits will be paid. You do not have a premium contribution to this plan; it is fully employer funded.

Dental Select: This is a PPO dental plan and premium contributions range from 8.8% to 11.5%, depending upon the coverage you select; i.e., single, double, family.

Vision Care: There are three premium based vision care plans available: Standard Opticare, Knighton Optical/BenChoice Plan and EyeMed Optical Plan. The premiums for these plans are based upon which medical plan in which you choose to enroll.

Flexible Benefits: A flexible benefits program (FLEX\$) is available to court employees. The program is designed to allow you to use "pre-tax" dollars to pay for specific, out-of-pocket health care and dependent care expenses not covered by your insurance plans. Enrolling in this plan allows you to decrease the amount of your taxable income because the dollars deposited into a FLEX\$ account are not taxable. Careful consideration should be given to determining the amount you wish to contribute to the FLEX\$ plan each year since unused funds cannot be returned.

Other Insurance

Life Insurance: The state provides Judges with a \$25,000 term life insurance policy through Public Employees Health Plan (PEHP). You may purchase up to \$300,000 of additional life insurance (in \$50,000 increments) for yourself at group rates. You can purchase an additional

\$50,000 of term life insurance for yourself and dependent coverage for your spouse and children without completing a health statement if you enroll within 60 days of your hire date. Amounts over \$50,000 require the completion of a health statement.

Disability Insurance: The state provides a long term disability insurance program at no cost to you. This insurance policy provides two-thirds of your salary and rehabilitation programs if you are disabled from an injury or illness for three months or longer. Benefits may continue until you are rehabilitated or become eligible for retirement.

Accidental Death and Dismemberment Insurance (AD&D): This insurance is available to supplement life, disability and health insurance. It covers accidental death, dismemberment, loss of use and loss of sight. Participation in this plan is optional and the amount of insurance for you select depends upon your own family's needs, subject to limitations of the Plan.

Spouse/Dependent Life Insurance: You may enroll your spouse and eligible dependent children in a life insurance program through PEHP. Insurance for your spouse may be purchased in amounts of \$5,000, \$15,000, \$40,000, \$65,000, \$90,000, \$110,000 or \$150,000. If you enroll within 60 days from your date of hire, there is a guaranteed issue of \$15,000. Dependent children ages 6 months to 26 years may be covered in amounts of \$5,000, \$7,500 or \$10,000 for each child at low premiums each pay period.

Leave Benefits

Vacation: Judges are eligible to receive 20 days of vacation each year. The vacation is available at the beginning of the calendar year. Unused vacation does not carry over into the next calendar year.

Paid Holidays: There are eleven paid holidays each year. If a holiday falls on Sunday, the following Monday will be observed as the holiday. If a holiday falls on Saturday, the preceding Friday will be observed as the holiday.

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday of January
Presidents' Day	Third Monday of February
Memorial Day	Last Monday of May
Independence Day	July 4
Pioneer Day	July 24
Labor Day	First Monday of September
Columbus Day	Second Monday of October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday of November
Christmas Day	December 25

Sick Leave: Judges do not accumulate a specified amount of sick leave. Sick leave is granted for illness as it occurs. The Judicial Council has authorized a policy which allows judges to receive 8 months of paid up medical, dental and life insurance benefits and/or Medicare Supplement at the time of retirement for each calendar year in which less than 4 days of sick leave have been used. A form will be sent to you by Human Resources at the end of each calendar year for you to indicate sick leave usage for the year. The form is to be returned to Human Resources. A form is also attached to this packet for your use in tracking sick leave usage throughout the year. Rule 3-501 – Judicial Sick Leave Policy – reads as follows:

[The amendments to Rule 3-501(5) were approved by the Judicial Council effective February 26, 2001 pursuant to Rule 2-205. The balance of the amendments are effective November 1, 2001.]

Rule 3-501. Insurance benefits upon retirement.

Rule 3-502. Insurance benefits for surviving spouses and dependent children of deceased justices, judges, and commissioners.

Note: The Code of Judicial Administration is available online at www.utcourts.gov/resources/rules.

Compensation

Pay Periods/Pay Days: Pay periods are two weeks in duration, commencing on Saturday and ending on Friday. Pay day is every other Friday and the check you receive is for the two week period immediately preceding the Friday pay day. There are 26 pay days in a year. Judges are paid statutorily; consequently, the last pay check you receive in the fiscal year may differ slightly from the other checks you receive during the year to assure that your annual pay is exactly what is specified by statute.

Direct Deposit: You may have your pay check deposited directly into your account(s) each pay day. The entire check must be deposited if you choose the direct deposit plan; however, you can apportion the amount into as many as four different accounts at different financial institutions so long as two are checking and two are savings accounts.

Credit Unions: Mountain America and Beehive Credit Unions provide a wide range of savings and banking services for state employees, including free checking accounts.

U.S. Savings Bonds: U.S. Savings Bonds are available and may be purchased through payroll deductions.

[Download Judicial Sick Leave Record](#)

Rule 3-403. Judicial branch education.**Intent:**

To establish the Judicial Branch Education Committee's responsibility to develop and evaluate a comprehensive education program for all judges, commissioners and court staff.

To establish education standards for judges, commissioners and court staff, including provisions for funding and accreditation for educational programs.

To ensure that education programs, including opportunities for job orientation, skill and knowledge acquisition, and professional and personal development, are available to all members of the judicial branch and that such programs utilize the principles of adult education and focus on participative learning.

To emphasize the importance of participation by all judicial branch employees in education and training as an essential component in maintaining the quality of justice in the Utah courts.

Applicability:

This rule shall apply to all judges, commissioners and court staff, except seasonal employees and law clerks.

Statement of the Rule:**(1) Organization.**

(A) Judicial branch education committee. The Judicial Branch Education Committee shall submit to the Council for approval proposed policies, standards, guidelines, and procedures applicable to all judicial branch education activities. It shall evaluate and monitor the quality of educational programs and make changes where appropriate within the approved guidelines for funding, attendance, and accreditation.

(B) Responsibilities of members. Committee members shall propose policies and procedures for developing, implementing, and evaluating orientation, continuing skill development, and career enhancement education opportunities for all judicial branch employees; formulate an annual education plan and calendar consistent with the judicial branch education budget; and serve as advocates for judicial branch education, including educating the judiciary about the purpose and functions of the Committee.

(C) Committee meetings.

(i) The Committee shall meet twice a year. Additional meetings may be called as necessary. A majority of voting members in attendance is required for official Committee action.

(ii) The chairperson may recommend to the Council that a Committee member be replaced if that member is absent without excuse from two consecutive Committee meetings or fails to meet the responsibilities of membership as outlined in paragraph (1)(B).

(2) Administration. Judicial Education Officer. The Judicial Education Officer, under the direction of the Court Administrator, shall serve as staff to the Committee and be responsible for the administration of the judicial education program consistent with this rule.

(3) Standards for judges and court commissioners.

(A) Program requirements. All judges and court commissioners shall participate in a designated orientation program during their first year and, subsequently, shall complete 30 hours of pre-approved education annually, to be implemented on a schedule coordinated by the Committee. Judges of courts of record and court commissioners may attend a combination of approved local, state, or national programs; however, attendance at the annual Utah Judicial Conference is mandatory absent good cause. Judges of courts not of record shall attend the annual Justice Court Conference, other mandatory programs as required by statute or this Code and such other pre-approved programs as necessary to complete 30 hours of education annually. Senior judges may attend approved local or state programs and the annual Utah Judicial Conference.

(B) Program components. Education programs for judges and court commissioners shall include: a mandatory new judge orientation program; a variety of programs addressing substantive and procedural law topics, aimed at skill and knowledge acquisition; and programs geared to professional and personal development, to meet the continuing needs of judges and court commissioners over the long term.

(4) Standards for court staff.

(A) State employees.

(i) Program requirements. All court staff employed by the state shall complete 20 hours of approved coursework annually.

(ii) Program components. Education programs for court staff employed by the state shall include: on-the-job orientation for new employees as well as semi-annual Orientation Academies; skill development programs that teach technical and job-related competencies; and enhancement programs that promote personal and professional growth within the organization.

(B) Local government employees.

(i) Program requirements. All court staff employed by the justice courts shall complete 10 hours of approved coursework annually. All other court staff employed by local government shall complete 20 hours of approved coursework annually.

(ii) Program components. Education programs for court staff employed by local government shall include: annual training seminar; skill development programs that teach technical and job-related competencies; and enhancement programs that promote personal and professional growth.

(5) Reporting.

(A) Judges, commissioners and court staff governed by these standards shall report participation in education programs on a form developed by the Committee.

(B) For judges and commissioners, compliance with education standards shall be an element of the judicial performance evaluation program and the certification process.

(C) For court staff, compliance with judicial branch education standards shall be a performance criterion in the evaluation of all staff.

(i) Supervisory personnel are responsible to ensure that all staff have an opportunity to participate in the required education. Failure of a supervisor to meet the minimum education standards or to provide staff with the opportunity to meet minimum education standards will result in an unsatisfactory performance evaluation in the education criterion.

(ii) Failure of staff to meet the minimum education requirements will result in an unsatisfactory evaluation on the education criterion unless the employee provides documented reasons that the employee's failure to meet the education standards is due to reasons beyond the employee's control.

(6) Credit. Judicial education procedures shall include guidelines for determining which programs qualify as approved education within the meaning of these standards.

(7) Funding.

(A) Budget. In preparing its annual request for legislative appropriations, the Council shall receive and consider recommendations from the Committee. The Committee's annual education plan shall be based upon the Council's actual budget allocation for judicial education.

(B) In-state education programs. Judicial branch funds allocated to in-state judicial education shall first be used to support mandatory in-state orientation programs for all judicial branch employees and then for other education priorities as established by the Committee with input from the Boards of Judges and Administrative Office.

(C) Out-of-state education programs. To provide for diverse educational development, to take advantage of unique national opportunities, and to utilize education programs which cannot be offered in-state, the annual education plan shall include out-of-state education opportunities. The Committee shall approve national education providers and shall include in the education procedures, criteria to be applied by the Administrative Office to out-of-state education requests. Criteria shall include relevance to the attendee's current assignment and attendance at in-state programs. Disagreement with a decision to deny an out-of-state education request may be reviewed by a quorum of the Committee at the applicant's request.

(D) Tuition, fees, and travel. The Committee shall develop policies and procedures for paying tuition, fees, per diem, and travel for approved programs. State funds cannot be used to pay for discretionary social activities, recreation, or spouse participation. The Committee may set financial limits on reimbursement for attendance at elective programs, with the individual participant personally making up the difference in cost when the cost exceeds program guidelines.

Utah Court Rules

Judicial Council Rules of Judicial Administration

Chapter 1 Judicial Council Organization.

Article 1. General Provisions

Rule 1-101 General definitions - Rules of construction.

Rule 1-102 Role and objectives of the Council.

Article 2. Judicial Council Organization

Rule 1-201 Membership - Election.

Rule 1-202 Officers - Secretariat.

Rule 1-203 Responsibilities of the presiding officer.

Rule 1-204 Executive committees.

Rule 1-205 Standing and ad hoc committees.

Article 3. Boards of Judges

Rule 1-301 Established - Composition.

Rule 1-302 Membership - Officers - Secretariat.

Rule 1-303 Internal procedures and organization.

Rule 1-304 General authority and duties.

Rule 1-305 Board of Senior Judges.

Chapter 2 Judicial Council Procedure.

Article 1. Council Meetings

Rule 2-101 Rules for the conduct of Council meetings.

Rule 2-102 Council agenda.

Rule 2-103 Open and closed Council meetings.

Rule 2-104 Minutes of Council meetings.

Rule 2-105 Referral to committee or Board.

Rule 2-106-01 Goals of performance evaluation for judicial self improvement.

Rule 2-106-02 Criteria for judicial self improvement.

Rule 2-106-03 Information for judicial self improvement.

Rule 2-106-04 Self improvement process.

Rule 2-106-05 Administration of the performance evaluation program for judicial self improvement.

Article 2. Rulemaking Procedure

Rule 2-201 Purpose of rules and resolutions.

Rule 2-202 Format for rules.

Rule 2-203 Forty-five day comment period.

Rule 2-204 Local supplemental rules.

Rule 2-205 Emergency rulemaking procedure.

Rule 2-206 Effective date of rules.

Rule 2-207 Annual rulemaking and review of the Code.

Rule 2-208 Publication and distribution.

Rule 2-209 Suspension of procedures.

Rule 2-210 Failure to comply with procedures.

Rule 2-211 Compliance with the Code of Judicial Administration and the Code of Judicial Conduct.

Rule 2-212 Communication with the Office of Legislative Research and General Counsel.

Chapter 3

Administration of the Judiciary.

Article 1. Judicial Office

Rule 3-101 Judicial nominating commissions.

Rule 3-102 Assumption of judicial office.

Rule 3-103 Administrative role of judges.

Rule 3-104 Presiding judges.

Rule 3-105 Judicial planning.

Rule 3-106 Legislative activities.

Rule 3-107 Executive branch policy initiatives.

Rule 3-108 Judicial assistance.

Rule 3-109 Ethics Advisory Committee.

Rule 3-110 Repealed and replaced with 2-106.01 through 2-106.05.

Rule 3-111 Repealed and replaced with 3-111.01 through 3-111.06.

Rule 3-111-01 Goals of performance evaluation for certification for retention election.

Rule 3-111-02 Judicial performance evaluation criteria.

Rule 3-111-03 Standards of judicial performance.

Rule 3-111-04 Evaluation and certification of judges and commissioners.

Rule 3-111-05 Evaluation and certification of senior judges.

Rule 3-111-06 Administration of the judicial performance evaluation and certification program.

Rule 3-112 Justice Court Standards Committee.

Rule 3-113 Senior judges.

Rule 3-114 Repealed.

Rule 3-115 Repealed.

Article 2. Quasi-Judicial Officers

Rule 3-201 Court commissioners.

Rule 3-201.02 Court Commissioner Conduct Committee.

Rule 3-201.6 Repealed.

Rule 3-202 Court Referees.

Article 3. Non-Judicial Officers

Rule 3-301 Court administrators.

Rule 3-302 Clerk of the Court.

Rule 3-303 Justice court clerks.

Rule 3-304 Official court reporters.

Rule 3-304.01 Substitute certified shorthand reporters.

Rule 3-305 Official court transcribers.

Rule 3-306 Court interpreters.

Rule 3-307 Court notaries.

Article 4. Administrative Services

Rule 3-401 Office of General Counsel.

Rule 3-402 Human resources administration.

Rule 3-403 Judicial branch education.

Rule 3-404 Public information program.

Rule 3-405 Contract management.

Rule 3-406 Budget and fiscal management.

Rule 3-407 Accounting.

Rule 3-408 Inventory.

Rule 3-409. Court facilities planning.

Rule 3-410 Automated information resource management.

Rule 3-411 Grant management.

Rule 3-412 Procurement of goods and services.

Rule 3-413 Judicial library resources.

Rule 3-414 Court security.

Rule 3-415 Auditing.

Rule 3-416 Repealed.

Rule 3-417 Administrative resolution of complaints filed pursuant to the Americans with Disabilities Act.

Article 5. Judicial Personnel Policies

Rule 3-501 Insurance benefits upon retirement.

Rule 3-502 Insurance benefits for surviving spouses and dependent children of deceased justices, judges, and commissioners.

Rule 3-503 Election to participate in deferred compensation plan.

Chapter 4

Operation of the Courts.

Article 1. Calendar Management

Rule 4-101. Calendaring court sessions.

Rule 4-102. Law and motion calendar.

Rule 4-103. Civil calendar management.

Rule 4-104. Repealed.

Rule 4-105. Continuances in special circumstances.

Rule 4-106. Electronic conferencing.

Rule 4-107. Consolidation of cases.

Rules 4-108, 4-109. Repealed.

Rule 4-110. Transfer of juvenile traffic cases from District and Justice Courts to the Juvenile Court.

Rule 4-111. Priority of post-conviction petitions in capital cases

Article 2. Court Records, Exhibits and Files

Rule 4-201. Record of proceedings.
Rule 4-202. Repealed.
Rule 4-202.01. Definitions.
Rule 4-202.02. Records classification.
Rule 4-202.03. Records access.
Rule 4-202.04. Records requests.
Rule 4-202.05. Denials of records requests.
Rule 4-202.06. Appeals.
Rule 4-202.07. Reserved
Rule 4-202.08. Fees for records, information, and services.
Rule 4-202.09. Miscellaneous.
Rule 4-202.10. Repealed.
Rule 4-202.12. Access to electronic data elements.
Rule 4-203. Presentence investigation reports.
Rule 4-204. Repealed.
Rule 4-205. Security of court records.
Rule 4-206. Exhibits.
Rule 4-207. Expungement and sealing of records

Article 3. Court Fees

Rule 4-301. Repealed.
Rule 4-302. Uniform recommended fine/bail schedule.
Rule 4-303. Assessment and collection of filing fees in civil cases commenced by the state, its agencies, or political subdivisions.
Rule 4-304. Assessment and collection of filing fees in matters not commenced by the filing of a complaint or petition.
Rule 4-305. Repealed.

Article 4. Internal Court Operations

Rule 4-401. Media in the courtroom.
Rule 4-402. Clerical resources.
Rule 4-403. Signature stamp use.
Rule 4-404. Jury selection and service.
Rule 4-405. Juror and witness fees and expenses.
Rule 4-406, 4-407. Repealed.
Rule 4-408. Locations of trial courts of record.
Rule 4-408.01. Responsibility for administration of trial courts.

Article 5. Civil Practice

Rule 4-501. Motions.
Rule 4-502. Repealed.
Rule 4-503. Requests for jury instructions.
Rule 4-504. Written orders, judgments and decrees.
Rule 4-505. Attorney fees affidavits.
Rule 4-505.01. Awards of attorney fees in civil default judgments with a principal amount of \$5,000 or less.
Rule 4-506. Withdrawal of counsel in civil cases.

Rule 4-507. Disposition of funds on trustee's sale.

Rule 4-508. Unpublished opinions.

Rule 4-509. [Reserved.]

Rule 4-510. Alternative dispute resolution.

Article 6. Criminal Practice

Rule 4-601. Victims and witnesses.

Rule 4-602. Victims' Rights Committees.

Rule 4-603. Motions for reduction of offense at sentencing.

Rule 4-604. Withdrawal of counsel in criminal and delinquency cases.

Rule 4-605. Use of unpublished opinions in criminal cases.

Rule 4-606. Repealed.

Rule 4-607. Presentence investigation reports.

Rule 4-608. Trials de novo of justice court proceedings in criminal cases.

Rule 4-609. Procedure for obtaining fingerprints and Offense Tracking Numbers on defendants who have not been booked in jail.

Rule 4-610. Appointment of justice court judges to preside at first appearances, preliminary hearings and arraignments in felony cases.

Rule 4-611. Probable cause determinations for purposes of detention.

Rule 4-612. Property bonds.

Rule 4-613. Intercounty jail prisoner transportation.

Article 7. Parking, Traffic and Infraction Cases

Rule 4-701. Failure to appear.

Rule 4-702. Repealed.

Rule 4-703. Outstanding citations and warrants.

Rule 4-704. Authority of court clerks to extend payment schedule and dismiss citations.

Rule 4-705. Juvenile traffic and parking offenses.

Article 8. Small Claims Practice

Rule 4-801. Transfer of small claims cases.

Rule 4-802. Motion to reinstate small claims proceedings.

Rule 4-803. Trials de novo in small claims cases.

Article 9. Domestic Relations and Juvenile Practice

Rule 4-901. Notice requirements for cases pending in district court and juvenile court.

Rule 4-902. Certification of district court cases to juvenile court.

Rule 4-903. Uniform custody evaluations.

Rule 4-904. Repealed.

Rule 4-905. Domestic pretrial conferences and orders.

Rule 4-906. Guardian ad litem program.

Rule 4-907. Mandatory divorce education.

Rule 4-908. Committee on Children and Family Law.

Rule 4-909, 4-910. Repealed.

Rule 4-911. Motion and order for payment of costs and fees.

Rule 4-912. Child support worksheets.

Rule 4-913. Divorce decree upon affidavit.

Chapter 5 Appellate Court Operations.**Article 1. Appellate Court Operations. [Reserved.]****Article 2. Court Operations**

Rule 5-201 Requests for enlargement of time by court reporters and court transcribers.

Chapter 6 District Court Operations.**Article 1. General**

Rule 6-101 The Board of District Court Judges.

Rule 6-102 Election of District Court judges to the Judicial Council.

Rule 6-103 District court tax judges.

Article 2. Civil

Rule 6-201 Distribution of trust funds.

Article 3. Criminal

Rule 6-301 Authority of court commissioner as magistrate.

Rule 6-302 Restitution.

Rule 6-303 Collection of fines and restitution.

Rule 6-304 Grand jury panel.

Article 4. Domestic Relations

Rule 6-401 Domestic relations commissioners.

Rule 6-402 Repealed.

Rule 6-403 Shortening 90-day waiting period in domestic matters.

Rule 6-404 Modification of divorce decrees.

Rule 6-405 Repealed.

Rule 6-406 Opening sealed adoption files.

Rule 6-407 Adoptions.

Article 5. Probate

Rule 6-501 Attorney's fees.

Rule 6-502 Attorney's fees in conservatorships.

Rule 6-503 Annual report of guardian.

Rule 6-504 Annual accounting of conservator.

Rule 6-505 Fiduciary accountings.

Article 6. Mental Health

Rule 6-601 Mental health commissioners.

Chapter 7 Juvenile Court Operations.**Article 1. Juvenile Court Administration**

Rule 7-101 Juvenile Court Board, Executive Committee and Council Representatives.

Rule 7-102 Duties and authority of Juvenile Court Commissioners.

Rule 7-103 Renumbered.

Article 2. Juvenile Court Records

Rule 7-201 Repealed.

Rule 7-202 Police access to computerized juvenile records.

Rule 7-203 Repealed

Article 3. Internal Operations

Rule 7-301 Intake.

Rule 7-302 Social studies.

Rule 7-303 Truancy referrals.

Rule 7-304 Probation supervision.

Rule 7-305 Reviews.

Rule 7-306 Repealed.

Rule 7-307 Use of money in the restitution fund.

Rule 7-308 Expungement procedures.

Chapter 8

Circuit Court Operations [Repealed].

Article 1. General Provisions [Repealed]

Rule 8-101 Repealed.

Rule 8-102 Repealed.

Article 2. Civil Practice [Repealed]

Rule 8-201 Repealed.

Article 3. Criminal Practice [Repealed]

Rule 8-301 Repealed.

Chapter 9

Justice Court Operations.

Article 1. General Provisions

Rule 9-101 Board of Justice Court Judges.

Rule 9-102 Caseload report requirements.

Rule 9-103 Certification of educational requirements.

Rule 9-104 Salary recommendations.

Rule 9-105 Justice Court hours.

Rule 9-106 New judge certification procedure.

Article 2. Civil Practice. [Reserved.]

Article 3. Criminal Practice

Rule 9-301 Record of arraignment and conviction.

Chapter 10 Local Supplemental Rules.**Article 1. District Court Rules****Second District**

Rule 10-1-201 Repealed.

Rule 10-1-202 Verifying use of jury.

Rule 10-1-203 Designation of video arraignment areas as courtroom.

Third District

Rule 10-1-301 Probate.

Rule 10-1-302 Renumbered.

Fourth District

Rule 10-1-401 Management of criminal law and motion calendars.

Rule 10-1-402 Management of civil law and motion calendars.

Rule 10-1-403 Pre-trial conference settings in criminal cases.

Rule 10-1-404 Attendance and assistance of prosecutors in criminal proceedings.

Rule 10-1-405 Warrants of arrest in aid of commitment.

Sixth District

Rule 10-1-601 Central Utah Correctional Facility designated a public courtroom.

Seventh District [Repealed]

Rule 10-1-701 Repealed.

Article 2. Juvenile Court Rules [Reserved]**Article 3. Circuit Court Rules [Renumbered]**

Appendix A. Manual of Procedures for Judicial Nominating Commission | [MSWord 6.0/7.0](#) | [.pdf file](#)

Appendix B. Repealed

Appendix C. Fine Bail Schedule

Appendix D. Utah Sentence and Release Guidelines

Appendix E. Repealed

Appendix F. Utah State Courts Records Retention Schedule

Appendix G. Child Support Worksheets

Appendix H. Code Of Professional Responsibility For Court Interpreters

SUPREME COURT RULES OF PROFESSIONAL PRACTICE

Chapter 11. General Provisions

Chapter 12. Code of Judicial Conduct.

Chapter 13. Rules of Professional Conduct.

Chapter 14. Rules of Lawyer Discipline and Disability.

Chapter 15. Standards for Imposing Lawyer Sanctions.

Chapter 16. Utah State Bar Rules for Integration and Management

Chapter 11. General Provisions

Article 1. Rulemaking Process

11-101. Supreme Court's rule making process.

Article 2. Judicial Conduct

11-201. Senior judges.

11-202. Judges pro tempore.

11-203. Senior Justice Court Judges.

Article 3. Professional Conduct

11-301. Law student assistance.

11-302. Admission pro hac vice.

Chapter 12. Code of Judicial Conduct.

Terminology.

1. A judge shall uphold the integrity and independence of the judiciary.

2. A judge shall avoid impropriety and the appearance of impropriety in all activities.

3. A judge shall perform the duties of the office impartially and diligently.

4. A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

5. A judge shall refrain from political activity inappropriate to the judicial office.

Applicability.

Chapter 13. Rules of Professional Conduct.

Preamble: A Lawyer's Responsibilities.

Scope.

Terminology.

Client-Lawyer Relationship

1.1. Competence.

1.2. Scope of representation.

1.3. Diligence.

1.4. Communication.

1.5. Fees.

1.6. Confidentiality of information.

1.7. Conflict of interest: general rule.

1.8. Conflict of interest: prohibited transactions.

1.9. Conflict of interest: Former client.

1.10. Imputed disqualification: general rule.

1.11. Successive government and private employment.

1.12. Former judge or arbitrator.

1.13. Organization as a client.

1.14. Client under a disability

1.15. Safekeeping property

1.16. Declining or terminating representation.

1.17. Sale of law practice.

Counselor

- 2.1. Advisor.
- 2.2. Intermediary.
- 2.3. Evaluation for use by third persons.

Advocate

- 3.1. Meritorious claims and contentions.
- 3.2. Expediting litigation.
- 3.3. Candor toward the tribunal.
- 3.4. Fairness to opposing party and counsel.
- 3.5. Impartiality and decorum of the tribunal.
- 3.6. Trial publicity.
- 3.7. Lawyer as witness.
- 3.8. Special responsibilities of a prosecutor.
- 3.9. Advocate in non-adjudicative proceedings.

Transactions with Persons Other Than Clients

- 4.1. Truthfulness in statements to others.
- 4.2. Communication with persons represented by counsel.
- 4.3. Dealing with unrepresented person.
- 4.4. Respect for rights of third persons.

Law Firms and Associations

- 5.1. Responsibilities of a partner or supervisory lawyer.
- 5.2. Responsibilities of a subordinate lawyer.
- 5.3. Responsibilities regarding nonlawyer assistants.
- 5.4. Professional independence of a lawyer.
- 5.5. Unauthorized practice of law.
- 5.6. Restrictions on right to practice.

Public Service

- 6.1. Pro bono legal service.
- 6.2. Accepting appointments.
- 6.3. Membership in legal services organization.
- 6.4. Law reform activities affecting client interests.

Information About Legal Services

- 7.1. Communications concerning a lawyer's services.
- 7.2. Advertising.
- 7.3. Direct contact with prospective clients.
- 7.4. Communication of fields of practice.
- 7.5. Firm names and letterheads.

Maintaining the Integrity of the Profession

- 8.1. Bar admission and disciplinary matters.
- 8.2. Judicial officials.
- 8.3. Reporting professional misconduct.
- 8.4. Misconduct.
- 8.5. Jurisdiction

Chapter 14. Rules of Lawyer Discipline and Disability.

Summary.

1. Purpose, authority, scope and structure of lawyer disciplinary and disability proceedings.
2. Definitions.
3. Ethics and discipline committee.
4. OPC counsel.
5. Expenses.
6. Jurisdiction.
7. Roster of lawyers.
8. Periodic assessment of lawyers.
9. Grounds for discipline.
10. Prosecution and appeals.
11. Proceedings subsequent to finding of probable cause.
12. Sanctions.
13. Immunity.
14. Service.
15. Access to disciplinary information.
16. Dissemination of disciplinary information.
17. Additional rules of procedure.
18. Interim suspension for threat of harm.
19. Lawyers convicted of a crime.
20. Discipline by consent.
21. Resignation with discipline pending.
22. Reciprocal discipline.
23. Proceedings in which lawyer is declared to be incompetent or alleged to be incapacitated.
24. Reinstatement following a suspension of six months or less.
25. Reinstatement following a suspension of more than six months; readmission.
26. Notice of disability or suspension; return of clients' property; refund of unearned fees.
27. Appointment of trustee to protect clients' interest when lawyer disappears, dies, is suspended or disbarred, or is transferred to disability status
28. Appeal by complainant.
29. Statute of limitations
30. Costs.
31. Noncompliance with child support order, child visitation order, subpoena or order relating to paternity or child support proceeding.

Chapter 15. Standards for Imposing Lawyer Sanctions.

Summary.

1. Purpose and nature of sanctions.
2. Sanctions.
3. Factors to be considered in imposing sanctions.
4. Imposition of sanctions.
5. Prior discipline orders.

6. Aggravation and mitigation.

Chapter 16. Utah State Bar Rules for Integration and Management

ETHICS ADVISORY COMMITTEE

ETHICS ADVISORY COMMITTEE

The Ethics Advisory Committee has been established as a resource for judges to request advice on the interpretation and application of the Code of Judicial Conduct. The Ethics Advisory Committee publishes its opinions on the internet and intranet.

The Judicial Council appoints the members of the Ethics Advisory Committee and designates the chair. The Committee is comprised of six members: an attorney, two District Court Judges, and one judge from each of the following court levels: the Court of Appeals, the Juvenile Court, and the Justice Court. Committee members are appointed to three year terms.

Questions regarding ethical issues should be referred to the Ethics Advisory Committee by contacting the chair of the committee or General Counsel in the Administrative Office of the Courts. All inquiries are treated confidentially.

It is important that judges remain objective during a court proceeding. It is equally important, though less obvious, that a judge, while outside the courthouse, participate only in those activities that prevent questions from being raised about objectivity. The off duty judge must avoid any activity that may introduce subjectivity or a conflict of interest into the courtroom, even if the subjectivity or conflict is merely perceived.

The Code of Judicial Conduct was prepared as a guideline to assist judges in answering questions regarding activities that may or may not influence their decision making capacity.

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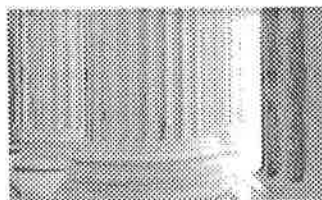
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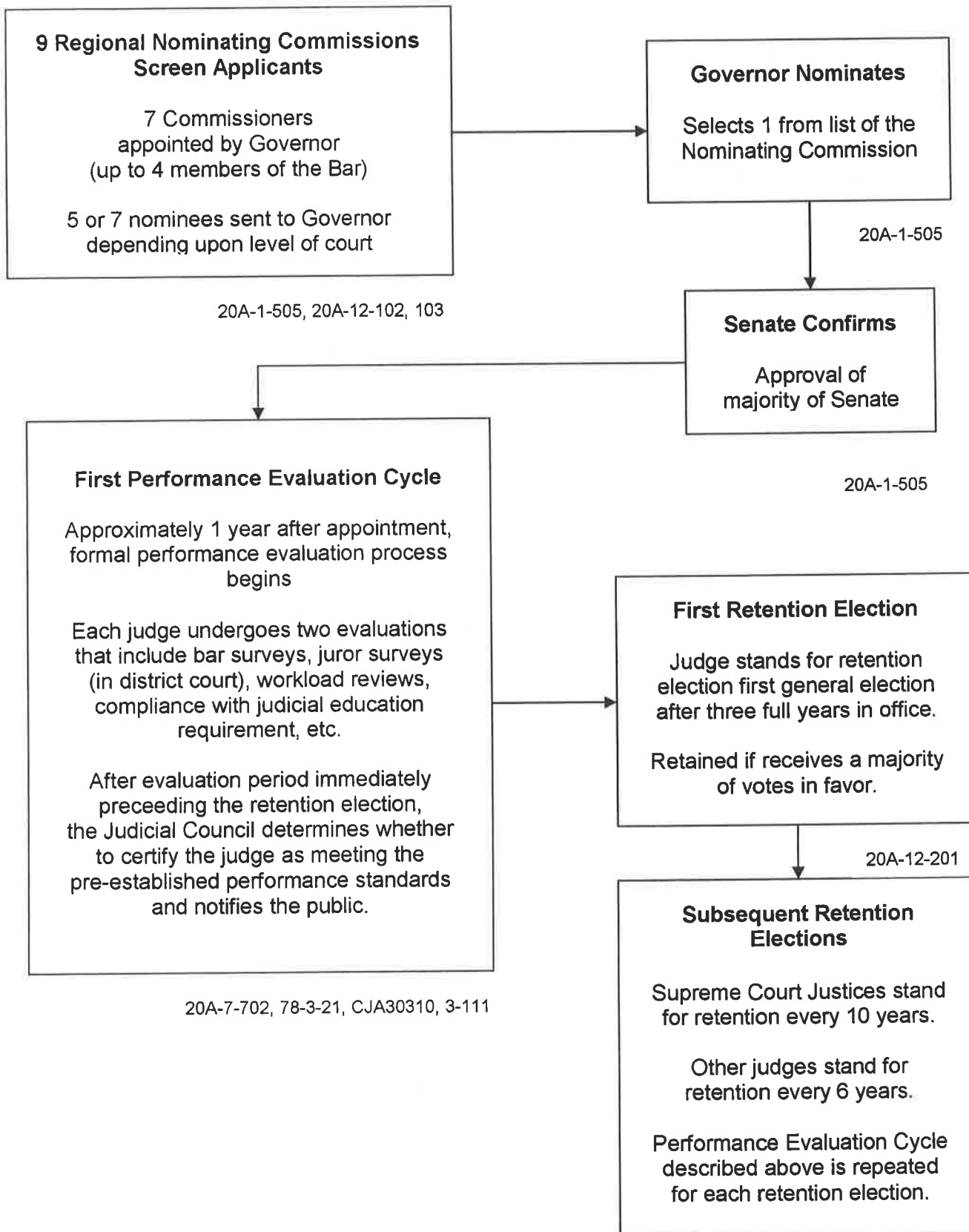
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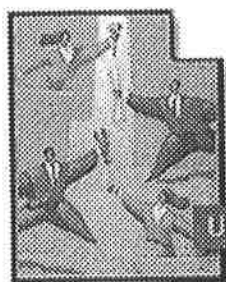
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COURT-ANNEXED ADR PROGRAMS

PURPOSE: The Court-Annexed ADR (Alternative Dispute Resolution) Programs offer options to the traditional judicial system, affording the citizens of Utah a full spectrum of choices for resolving disputes.

HISTORY: Formal litigation has been used to resolve civil disputes for centuries. The outcomes of formal litigation are often costly, time consuming, and rigid. Mediation and arbitration are two alternative dispute resolution mechanisms now available through the courts. Both of these processes have been shown to provide effective resolutions to disputes, and can be faster, less expensive, and more satisfying to the parties than litigation. The Alternative Dispute Resolution programs encourage the use of ADR to the extent that it serves the interests of the involved parties. It is not intended to replace traditional litigation, only to supplement it, and to provide more flexibility in resolving disputes.

In the 1994 session, Utah's legislature passed a bill (**78-31b-1-13**) mandating the Judicial Council to implement a program utilizing Alternative Dispute Resolution in the state courts. The program was implemented by the Judicial Council and Supreme Court rules on January 1, 1995. The **Court Rule (4-510)** applies to cases filed in the Second, Third, and Fourth Judicial Districts. The program encourages the use of ADR to the extent that it serves the interests of the involved parties. It is not intended to supplant traditional litigation, only to supplement it, and to provide more flexibility and choice of methods used to resolve disputes.

PROGRAM: The program offers two ADR Processes: Mediation and non-binding arbitration:

Mediation: A collaborative meeting in which the disputing parties seek to resolve their differences through the use of a skilled, neutral third party, the mediator. As a dispute resolution process, mediation has the advantages of being informal, confidential, and collaborative. It proceeds more quickly than litigation, and often results in less expenditures of time and money. The final agreement is not imposed upon the disputants; instead the disputants design it according to their own interests. Finally, it is not an adversarial process, so the parties have the potential to preserve their relationship once the process has concluded.

Arbitration: Arbitration is an evidentiary hearing, similar to a trial, in which the arbitrator hears arguments, reviews evidence, rules on motions where appropriate, and determines awards. It is less formal than litigation and somewhat more collaborative in that the parties choose the arbitrator together and agree upon the extent of discovery. It can be convened and conducted more quickly than a formal trial, and it is also confidential. In the case of non-binding arbitration, the award can be accepted and reduced to an agreement, or rejected by the parties in favor of a trial de novo.

All cases subject to this rule shall be referred to the ADR program upon the filing of a responsive pleading unless the parties have participated in a collaborative law process. The matter will proceed to mediation 30 days after the filing of the responsive pleading unless one of the following occurs:

- One or more parties file with the clerk a **statement asking the court to defer ADR consideration until a later date**. The statement shall be signed by both counsel and the party and shall state that counsel and the party have reviewed the

ADR videotape. If participation in the ADR program is deferred in a divorce, paternity or annulment action, the case shall proceed to mediation within 90 days of the filing of an answer unless good cause is shown why mediation should not occur. If participation in the ADR program is deferred in other cases, the court and parties are required to address the usefulness of mediation or arbitration in resolving the case no later than the first pretrial conference.

- All parties file with the clerk a written agreement to submit the case to nonbinding arbitration.
- All parties file with the clerk a written agreement to submit the case to binding arbitration.

At any time:

- The court on its own motion, may refer the action or any issues therein to the ADR program.
- The court upon its own motion, or for good cause shown upon motion by a party, the court may order that an action that has been referred to the ADR program be withdrawn from the ADR program and be restored to the trial calendar.
- A party, believing that continuing in mediation is no longer productive, may terminate participation and shall notify the other party and mediation.

Notice requirements:

- Any time the parties determine to use mediation or arbitration in the resolution of the case, the plaintiff shall **notify the court and specify the expected date for completion of the ADR process.**
- Upon conclusion of an ADR process, the plaintiff shall **notify the court of the outcome of the ADR process on a form provided by the court.**

Selection of ADR Provider:

- The parties may select an ADR provider from the **court-annexed ADR provider roster.**
- If the parties require a pro bono ADR provider, they should contact the **Director of ADR Programs.**

The following forms are available for download in .pdf format.

[ADR Disposition Notice](#) | [Statement of Deferral of ADR Program](#) | [ADR Referral Notice](#)

COURT ADR PROGRAMS

Court-Annexed ADR Program:

- Requires viewing of mandatory videotape and filing of a notice certifying that parties will consider using mediation or arbitration before the first pre-trial.

- ▶ Maintains a list of private professional providers from which parties may choose their mediator or arbitrator.
- ▶ In 2001... **2526 mediation sessions were reported to the court with 79 % resolution.**

Parent-Time (Visitation) Mediation Program:

- ▶ Created by UCA Section 30-3-38 and implemented in 3rd District Court; all disputed parent-time (visitation) matters are automatically referred to mediation.
- ▶ A roster of private professionals provide services at cost to the parties. The Court provides mediation services for impecunious parties.
- ▶ In 2001....**298 cases mediated with 56% reaching full agreement and another 21% reaching partial agreement.**

Juvenile Court Victim-Offender Mediation Program:

- ▶ Purpose of the program is to give victims an opportunity to meet juvenile offenders and express the impact that the crime had on their lives.
It also gives victims a more active role in the justice process in determining restitution and ways for the offender to help restore the community.
- ▶ Trained volunteer mediators from the community provide mediation sessions.
- ▶ In 2001...**205 cases were processed with 98% successful resolution.**

Child Welfare Mediation Program:

- ▶ The programs purpose is to build cooperation among families, attorneys, state agencies, and the juvenile court in serving the best interests of children, while negotiating parental treatment plans and placement of children.
- ▶ Program consists of two full-time staff mediators and one case load coordinator.
- ▶ In 2001...**524 mediation sessions held, 90% resulted in productive movement, 66% were fully resolved.**

Landlord-Tenant Mediation Program:

- ▶ Provides mediation services to landlords and tenants involved in eviction proceedings.
- ▶ Program utilizes trained volunteer mediators.
- ▶ Program is a collaboration between the Community Action Program and the Courts.
- ▶ In 2001...**110 mediation sessions held with 95% resulting in a successful agreement. Sixty-eight of the cases resulted in a stayed eviction and prevented homelessness.**

Probate Mediation Program:

- ▶ All probate disputes in Third District (Matheson Court) that are not resolved by the law and motion judge are automatically referred by the court to the ADR program at the time the case is referred to a judge for trial.
- ▶ By default, the form of ADR is mediation but parties may agree to substitute non-binding

arbitration or binding arbitration.

- ▶ Court provides a list of mediators from the Court roster who feel they have the expertise to mediate in probate disputes.

Truancy Mediation Program:

- ▶ Program is an intervention to divert truancy cases from entering the juvenile court system.
- ▶ Program is a collaboration with Jordan School District.
- ▶ Program utilizes trained mediators from the community.
- ▶ In 2001...189 cases were mediated with 87% success. This resulted in 164 youth being diverted from the juvenile court system.

Small Claims Mediation Program:

- ▶ Disputants in small claims case are given the opportunity to mediate the case prior to court.
- ▶ The program utilizes trained volunteer mediators from the community.
- ▶ The program is a collaboration with Utah Dispute Resolution.
- ▶ In 2002...537 cases were mediated, with 62% resolution.

Utah Court of Appeals: Appellate Mediation Office

- ▶ Created by statute in 1998 to provide mandatory mediation in cases before the Utah Court of Appeals.
- ▶ Trained mediator provided by the Utah Court of Appeals.

****The Appellate Mediation Program is administered by the Utah Court of Appeals****

UTAH COURTS ADR PROGRAMS-2002

FIRST DISTRICT:

Domestic
Child Welfare
Restorative Dialogue
Truancy

SECOND DISTRICT:

Court-Annexed
Domestic (domestic case manager)
Child Welfare
Restorative Dialogue

THIRD DISTRICT:

Court-Annexed
Domestic
Probate
Small Claims
Landlord-Tenant
Co-Parenting
Child Welfare
Restorative Dialogue
Truancy

<u>FOURTH DISTRICT:</u>	Court-Annexed Domestic Small Claims Co-Parenting Child Welfare Restorative Dialogue
<u>FIFTH DISTRICT:</u>	Restorative Dialogue Truancy Child Welfare
<u>SIXTH DISTRICT:</u>	Child Welfare
<u>SEVENTH DISTRICT:</u>	Child Welfare Truancy (administered by LIC) Domestic
<u>EIGHTH DISTRICT:</u>	Child Welfare Restorative Dialogue Truancy Landlord-Tenant (possible)
<u>COURT OF APPEALS:</u>	Appellate Mediator

ALTERNATIVE DISPUTE RESOLUTION IN PROBATE A Pilot Project of the Third District Court, Utah

What cases apply:

All probate disputes that are not resolved by the law and motion judge are automatically referred by the court to the ADR program at the time the case is referred to a judge for trial. By default, the form of ADR is mediation but parties may agree to substitute non-binding arbitration or binding arbitration. The rules provide that mediation shall be commenced within 30 days of the date of referral. To exit ADR prior to completing the process, a motion to withdraw from probate mediation (this form is included in your packet) and a request for a scheduling conference must be filed with the assigned judge.

How do I find a mediator:

Included in this packet is a list of mediators from the Court roster who feel they have the expertise to mediate in probate disputes. It is your responsibility to select and contact a mediator within 30 days. The fees of the mediator are to be determined in advance and paid at the time of the actual mediation. If a Personal Representative, Trustee, Guardian or Conservator with liquid assets is a party, the estate or trust will pay the mediator's fees. Otherwise, the earliest petitioner in the matter(s) referred to mediation will pay but is entitled to reimbursement from the estate or trust. Ultimate responsibility for reimbursing the mediator's fees is reserved for the court to determine absent agreement of the parties. If the parties

cannot afford mediator fees or there is another good reason, a pro bono mediator may be appointed through the Director of Dispute Resolution, Administrative Office of the Courts. Telephone: Kathy Elton, 578-3982. Fax: 578-3843. e-mail: kathye@email.utcourts.gov

What is the time line:

ADR is expected to be completed within 60 days from the date of the automatic referral. If the parties agree to a different date, notice of the new date should be filed with the court. Only the assigned judge can change the 60 day suspension of Rule 26(a)(1) and (f). Discovery may proceed during mediation proceedings (URCADR Rule 101(f)). However, the initial disclosure and the discovery and scheduling conference provisions of Rule 26(a)(1) and (f) of the Utah Rules of Civil Procedure are automatically stayed by the court for 60 days following the referral to ADR. This stay ends when a motion to withdraw from probate mediation is filed.

Who reports the outcome of the mediation to the Court:

Upon completion of ADR, the plaintiff is required to notify the court of the outcome on a form provided by the court (form is included in this packet). This is required for purposes of both case management and tracking the results of mediation. All parties should understand that to give an agreement the force of a judgment, a motion must be made and a judgment entered by the assigned judge. The "plaintiff" in probate proceedings is presumed to be the earliest petitioner in the matter(s) referred to mediation and may have duties under Rule 4-510 and Rule 26. A motion to designate another party as "plaintiff" should be brought before the assigned judge.

What is required if I do not want to enter into mediation:

To exit ADR prior to completing the process, a motion to withdraw from probate mediation (this form is included in your packet) and a request for a scheduling conference must be filed with the assigned judge. The motion shall be signed by both counsel and the party and shall state that counsel and the party have reviewed the ADR videotape and have discussed proceedings under the ADR program, but have determined that participation in ADR should be deferred. This videotape may be viewed at the law library on the first floor of the Scott M. Matheson Courts Building, 450 S. State Street, Salt Lake City, Utah. It is also available for purchase for \$10 from the Office of Alternative Dispute Resolution at the Administrative Office of the Courts..

Restorative Dialogue Programs

What is Restorative Justice?

Restorative Justice emphasizes the way in which crime hurts relationships between people who live in a community. Crime is seen as a wound that affects victims and communities rather than simply a violation against the state. Restorative Justice focuses on restoring the losses suffered by victims, holding offenders accountable for the harm they have caused, and bringing together victims, offenders and the community to identify ways to repair the harm. Restorative Justice involves the community in preventative and intervention programs, and requires the offender to take direct responsibility for his or her actions.

Programs offered in the Juvenile Court

In Utah several programs are available in the First, Second, Third, Fourth, Fifth and Eighth District Juvenile Courts which include: Victim Offender Mediation, Group Conferencing, Truancy Mediation and Talking Circles. Not all programs are available in all judicial districts-- please contact your local juvenile court for programs available in your area. Restorative Dialogue programs are administered by local juvenile courts around the state with collaboration from the Administrative Office of the Courts Alternative Dispute Resolution (ADR) Department. All of the programs utilize trained community volunteers which helps to reduce program costs and broaden community involvement.

Program Descriptions

Victim Offender Mediation (VOM) offers victims of crime and offenders the opportunity to meet face to face to discuss the impact of crime, the resulting harm and to create an agreement to repair the harm done. VOM offers victims a forum in which they may ask the offender questions related to the crime, share feelings about the crime, and have a voice in ways to repair the harm. VOM extends to offenders the opportunity to take personal responsibility for their actions and to make things right. The mediator is a neutral third-party who makes sure the mediation is safe for everyone involved, facilitates the dialogue between the victim and offender, and helps the parties to identify possible solutions.

Group Conferencing offers victims, offenders, and other affected community and family members a process to repair the harm caused by crime which utilizes the presence and skills of a neutral third-party facilitator. Like VOM, Group Conferencing allows for face to face dialogue between victims and offenders but includes other key support people for both the offender and victim to discuss the impact of crime, the resulting harm, and ways to repair the harm. The facilitator assists the parties in creating possible solutions to repair harm and helps test the feasibility of the solutions until the parties can reach a consensus agreement. Group Conferencing allows for all persons affected by the crime to be involved in the process as compared to VOM.

Truancy Mediation is offered to students and parents as an alternative to a formal referral to the Juvenile Court for habitual truancy. Truancy mediation is a process that uses the presence and skills of a neutral third-party (mediator) to assist the school, student and parents to resolve the truancy issue in a safe environment where all viewpoints are acknowledged. The program uses a "team approach" to resolve the problem. The mediator assists the parties to create and test the feasibility of possible solutions that have been identified and to reach a consensus agreement.

Talking Circles are used to resolve conflict by incorporating a physical object or "talking piece" in which only the person holding the talking piece may speak. The process gives all participants an equal opportunity to speak and is helpful in cases involving high emotion or conflict.

Benefits for Victims

- To participate and have considerable influence in the justice process.
- To express to the offender the harm that was done and the feelings which resulted.
- To increase the opportunities for restitution by exploring options and coming to agreement with the offender on the terms and conditions of restitution.
- To meet the offender and have questions about the crime and offender answered.

Benefits for Offenders

- To accept responsibility and become positively involved in the outcome of the justice process.
- To explain how and why the offense occurred and to apologize or express feelings if that seems appropriate.
- To repair the harm caused by crime in ways that are practical and consistent with resources available to the offender.
- To have a sense of personal resolution with the victim rather than simply serving time or paying money to the state.

Program Success

The Utah Restorative Dialogue Programs receive high scores of client satisfaction from victims, juvenile offenders, parents, and school personnel who have participated in the programs. Evaluation forms are provided at the end of the mediation or group conference and the results are kept by the Administrative Office of the Courts Alternative Dispute Resolution (ADR) Department.

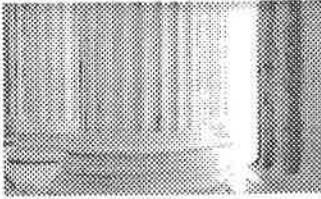
Youth who participate in the Victim Offender Mediation and Group Conferencing programs are more likely to pay restitution on time and complete their agreements compared to youth who do not participate in the programs. Figures from the Third District Juvenile Court Program reveal that youth who participate in Victim Offender Mediation are 20% more likely to pay restitution obligations on time versus youth who do not participate in mediation.¹

Students who participate in truancy mediation show a marked improvement in school attendance as well.² School personnel report that they have a better working relationship with students and parents after participating in truancy mediation and they have a better understanding of the student's situation related to the truancy problem.

¹ Figures available from the Administrative Office of the Courts ADR Dept. (3/98)

² Figures available from Truancy Mediation Program Administrative Office of the Courts ADR Department

Utah State Courts

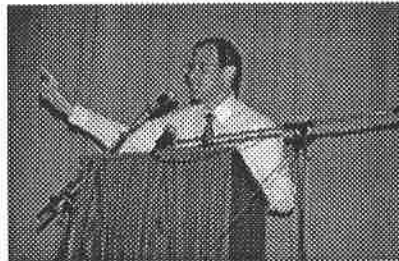
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Mission Statement

The mission of the Utah Courts is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.



Welcome to the Utah Courts' Online Media Reference Center

This reference center is provided to assist journalists covering the courts by providing news and background materials about the judicial branch. From this center, you can quickly:

- Reference Judicial Council minutes
- Link to the Supreme Court's most recent opinions
- Contact local courts
- Get the latest caseload numbers
- Access rules and policies of interest to those covering the courts including
 - Cameras in the courtroom
 - Rules for public access to information

Just being introduced is an online repository of news releases and media advisories and a news release subscription service. Sign up and receive via e-mail court news releases and media advisories as soon as they are published.

We welcome all media feedback and inquiries. Look around and let us know what you think. Please address to Kim Allard, Administrative Office of the Courts at kima@email.utcourts.gov.

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Court Records: What's Public and What Isn't

- Rule 4-202.02. Records classification.
- Rule 4-202.03. Records access.
- Rule 4-202.04. Records requests.
- Rule 4-202.05. Denials of records requests.
- Rule 4-207. Expungement and sealing of records.

Media in the Courtroom

- Rule 4-401. Media in the courtroom.

TAB 4



Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

To: Judicial Council
From: Tim Shea *TS*
Date: February 3, 2003
Re: Approval of judicial performance evaluation deadlines

The judicial performance evaluation process for 2004 will soon begin. There are 43 state court judges scheduled for retention election in November 2004, 91 justice court judges for 108 municipalities whose terms expire in February 2004, and three court commissioners whose terms expire in June 2004. Retirements may affect these figures. The county justice court judges are not affected by this evaluation cycle.

The rule regulating evaluation procedures requires the Judicial Council to approve a timeline of events. I have attached a proposed schedule for the judges and commissioners of the courts of record and for the municipal justice court judges.

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

**Schedule of Events
2003 – 2004 Judicial Performance Evaluation
and Retention Election
Judges of Courts of Record**

Date	Event
October 2001 – October 2003	Surveyor conducts continuing survey of jurors regarding district court judges standing for retention election in 2004 (for certification) and 2006 (for self-improvement).
April 1, 2003	Notify judges of events and deadlines.
May 9, 2003	Send form to judges to identify attorneys to be omitted from survey.
June 1, 2003	Run computer reports of attorneys appearing before judges between June 1, 2001 and May 31, 2003.
June 1, 2003	Deadline for judges to identify attorneys to be omitted from survey.
June 10, 2003	Management Committee considers requests to omit attorneys from survey.
June 23, 2003	Judicial Council ratifies Management Committee decisions.
July – August 2003	Surveyor prepares forms and builds attorney-respondent lists.
September 2003	Surveyor conducts survey of attorneys.
November 1, 2003	Send self declaration form to judges and commissioners whose terms expire.
November 1, 2003	Obtain Supreme Court record of formal and informal sanctions.
December 1, 2003	Deadline for self declaration forms.
December 1, 2003	Surveyor reports results of attorney and juror surveys to judges, presiding judges and Council. End of the process for judges not standing for election in 2004.
December 8, 2003	Mail judicial performance evaluation information to Judicial Council: attorney survey results, juror survey results, self declaration forms, judicial education records, record of formal and informal sanctions.
December 15, 2003	Meeting of Judicial Council to review performance evaluation information. Council makes preliminary findings and certifications. Council may withhold certification pending meeting with judge.
December 17, 2003	If applicable, invite judges and presiding judges to submit written documents to Council and meet with Council in January.
January 12, 2004	If applicable, deadline for judges and presiding judges to submit documents to Council.
January 26, 2004	If applicable, Council meeting with judges and presiding judges. Final findings and certifications. Continue to February if necessary.
February 23, 2004	If necessary, final meeting with judges and presiding judges. Final findings and certifications.

Date	Event
March 1, 2004	<p>Notify judges of Council's final findings and certifications. Send declaration of candidacy form with instructions to judges whose terms expire. Notify Lt. Governor of judges due for retention election in November. Notify Supreme Court of findings and certifications regarding senior judges.</p>
March 7 – 17, 2004	Deadline for judge to file declaration of candidacy and \$50 filing fee with the county clerk or with the Lt. Governor. §20A-12-201(2)(a); §20A-9-202(1)(b).
April – May, 2004	<p>Draft all statements and descriptions required of the Judicial Council and Supreme Court by §20A-7-702(2)(h). Solicit biographical information from judges.</p>
June, 2004	Judicial Council and Supreme Court approve all statements and descriptions required by §20A-7-702(2)(h).
August 1, 2004	<p>Provide to the Lt. Governor information required to be published in the voter information pamphlet. §20A-7-702(2); §78-3-21(4)(e). Post voter information on judiciary's Web page.</p>
September 1, 2004	Notify judges of campaign finance reporting laws. §20A-12-301 et seq.
November 2, 2004	General Election.
December 2004	Certificates of election issued by Lt. Governor.
First Monday in January 2005	<p>Judges of courts of record assume office. §78-2-1(2); 78-2a-2(1); 78-3-3; 78-3a-107(1). Deadline to take oath of office if it has not already been administered. Utah Const., Art. VI, §10; CJA 3-102(1)(B).</p>
March 4, 2005	Deadline to file oath of office with Division of State Archives, §52-1-2; §52-2-1, with a copy to the AOC. CJA 3-102(1)(A).

Schedule of Events
2003 - 2004 Judicial Performance Evaluation
Municipal Justice Court Judges

Date	Event
February 1, 2003	Send self declaration form to judges.
February 1, 2003	Obtain Supreme Court record of formal and informal sanctions.
March 1, 2003	Deadline for self declaration forms.
March 6, 2003	Mail judicial performance evaluation information to Judicial Council: self declaration forms, judicial education records, record of formal and informal sanctions.
March 13, 2003	Meeting of Judicial Council to review performance evaluation information. Council makes preliminary findings and certifications. Council may withhold certification pending meeting with judge.
March 18, 2003	If applicable, invite judges to submit written documents to Council and meet with Council in April.
April 14, 2003	If applicable, deadline for judges and presiding judges to submit documents to Council.
April 28, 2003	If applicable, Council meeting with judges and presiding judges. Final findings and certifications. Continue to May if necessary.
May 27, 2003	If necessary, final meeting with judges and presiding judges. Final findings and certifications.
June 1, 2003	Notify judges of Council's final findings and certifications.
June, 2003	Draft all statements and descriptions required of the Judicial Council and Supreme Court by §20A-7-702(2)(h).
July, 2003	Judicial Council and Supreme Court approve all statements and descriptions required by §20A-7-702(2)(h).
August 1, 2003	Provide to the Mayor information required by §20A-7-702(2) and §78-3-21(4)(e). Post information on judiciary's Web page.
August 2003 – January 2004	Reappointment process governed by state statute and local process.
First Monday in February 2004	Municipal justice court judges assume office. §78-5-132(2). Deadline to take oath of office if it has not already been administered. Utah Const., Art. VI, §10; CJA 3-102(1)(B).
April 2, 2004	Deadline to file oath of office with city recorder. §52-1-4; §52-2-1, with a copy to the AOC. CJA 3-102(1)(A).

TAB 5

Curriculum Vitae

JOEL J. CAMPBELL

E-509 HFAC, Brigham Young University, Provo, UT 84602, 801-422-2125, joelcampbell@byu.edu

EDUCATION

Master's degree. Ohio State University, School of Journalism and Communication, Columbus, Ohio. Emphasis in new communications technology, media accountability and First Amendment law and public policy. *March 2000.*

Participant. National Institute of Corrections. Media Relations seminar. San Antonio, Texas, January 2002.

Participant. American Press Institute, Seminar for Business Editors. Reston, Va. *October 1998.*

Participant. National Institute of Computer-Assisted Reporting. University of Missouri, School of Journalism. Columbia, Mo. *August 1995.*

Participant. Ohio State University Teaching Seminar. *September 1995.*

Fellow. One of six American journalists to visit and study in Japan under a journalist exchange program sponsored by the Center for Foreign Journalists and Japan Editors and Publishers Association. *November 1992.*

Fellow. Participated in The Knight Center for Specialized Journalism "America by the Numbers" demographics reporting seminar, University of Maryland. *April 1990.*

Degree. Bachelor's degree in journalism, Brigham Young University, Provo, Utah. *April 1987.*

Degree. Associate's degree in journalism, Ricks College, Rexburg, Idaho. *April 1985.*

Graduate. Box Elder High School. Brigham City, Utah. *June 1981.*

PROFESSIONAL EXPERIENCE

Manager, corporate communications. Management & Training Corporation, Centerville, Utah. Direct media relations and writing for employee newsletters and magazine distributed to government leaders and stakeholders in federal Job Corps program and privatized prisons. *March 2001 to April 2002.*

Associate editor, new media. Lead content manager for online deseretnews.com, Salt Lake City, Utah, which averages 150,000 page impressions a day. Placed entire content of daily newspaper on Web, as well as added breaking news and additional content from other sources. Developed and designed new niche online market products. The site was voted best Utah news Web site in 1999 and 2000 Utah Excellence in Journalism Contest sponsored by Society of Professional Journalists. *January 2000 to March 2001.*

Associate business editor. (Salt Lake City) *Deseret News*. Acted as lead production editor for daily *Deseret News*' Business page and Sunday Money section. Also covered biotechnology and medical business stories. *1997-1999.*

Lecturer. Gave lectures and seminars on media law to journalism students at Brigham Young University, Utah State University, Weber State University, Salt Lake Community College and University of Utah. Also gave presentations at Utah League of Cities and Towns convention, organization of school board public relations specialists, state conference for high school journalists and Federation of Press Women, Utah Chapter. Participated on panel discussion for Salt Lake Bar Association; and Brigham Young University Law School conference, 1991 - present.

COMMUNITY AND PROFESSIONAL SERVICE

Vice president. Utah Headliners Chapter, Society of Professional Journalists. June 2001 until present.

Member. Southern Utah University Student Press Freedom Task Force. Society of Professional Journalists. The four-member task force examined student press freedom after students reported climate of censorship following publication of controversial article. *October 2002.*

Member. Utah Information Technology Commission. Appointed by speaker of Utah House of Representatives to serve as citizen member of commission which develops information and technology policy for state. *September 2001.*

Legislative monitor. Utah Press Association. Monitor legislative committees and prepared legislative updates and summaries. Helped coordinate legislative initiatives. *1997-present*

Board member and founding member. National Freedom of Information Coalition. The national group coordinates and assists activities of state-level open government groups. Responsible for creating national Freedom of Information world wide web site. Served with nationally-known media law academicians and advocates. *January 1991 - 1998.*

Media representative. Selected as negotiator on behalf of Utah media organizations in legislative discussions to amend the Utah Open Meetings Act. *June 1993 - July 1994.*

Freedom of Information Committee Chairman. Utah Headliners Chapter, Society of Professional Journalists. Involvement included advocacy on many issues including national medical privacy debate. For example, prepared comments on behalf of Society of Professional Journalists regarding regulations involving medical privacy to U.S. Department of Health and Human Services in Jan. 1999. *1991 - 2000.*

Founding member, president, treasurer. Utah Foundation for Open Government. The foundation promotes First Amendment and open government issues through education. Wrote grants and engaged in fundraising activities that have raised more than \$30,000 for handbooks, newsletters, seminars and hotline activities. *October 1992 - 2000.*

Participant. Invited to serve as a national delegate to the First Amendment Congress' "CyberRights" meetings. The Congress released position papers on several issues related to the Internet and cyberspace including privacy and access. These positions are influential in helping form national public policy on technology issues. *March 1997.*

Panelist

Moderated panel discussion, "Access By Exemption?" Society of Professional Journalists' National Convention, Columbus, Ohio. *October 2000.*

"Legislature's focus to include tight budgets and public notice issues," *Pressing Issues* 24 (Utah Press Association newsletter distributed to the Utah newspaper publishers and editors, Jan. 13, 2003): 4.

"Concerns about criminal defamation prosecution in Beaver Co. more than theoretical," *Pressing Issues* 22 (Dec. 23, 2002): 4.

"Utah attacks First Amendment ideals by pursuing former student, says SPJ," Society of Professional Journalists news release, Dec. 11, 2002.

"New UF Study Ranks States' Access to Sex Offender Information," Marion Bechner Center Citizen Access Project news release, Nov. 12, 2002.

"Open government issues give newspapers opportunity to educate public," *Pressing Issues* 21 (Nov. 25, 2002): 4.

"Reductions likely in store for water use and truth-in-taxation notices," *Pressing Issues* 19 (Utah Press Association newsletter, Oct. 28, 2002): 4.

"Water Rights Division finalizes proposal to cut newspaper ads, increase Internet notice," *Pressing Issues* 16 (Sept. 30, 2002): 4.

"Legislators look at water-right public notice law rewrite," *Pressing Issues* 11 (June 24, 2002): 4.

"Utah lawmakers consider opening more juvenile court proceedings," *Pressing Issues* 10 (June 10, 2002): 4.

"Utah prosecutors target reporters," *Pressing Issues* 8 (May 13, 2002): 4.

"Hot topics up for study during Legislature's interim," *Pressing Issues* 5 (April 8, 2002): 4.

UNPUBLISHED PAPERS

"Aiming at the Paparazzi: Hitting the News Media," unpublished, Ohio State University, *March 2000*.

"Watching the Watchdogs: News Councils, Arbitration and Ombudsmen," unpublished, Ohio State University, *April 1995*.

"Future Press: Emerging Electronic Newsproducts," unpublished, Ohio State University, *December 1994*.

SKILLS

Photography, writing, computer-assisting reporting and investigative reporting skills
Spreadsheet use, database use, Internet and World Wide Web search, HTML and electronic publishing skills.

Public speaking, speech writing and presentation skills

Public relations and marketing experience

Grant writing experience

Good Korean language skills. Fair German language skills

TAB 6



Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

To: Management Committee
From: Tim Shea *TS*
Date: January 30, 2003
Re: Standing committee appointments

The following people are completing their first terms on the committees indicated, and they have expressed a desire to be appointed for a second term. The chair and staff to the respective committees indicate they fully participate in the committee's work, and recommend their reappointment.

Sheila McCleve	Third District Court	Education Committee
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There is a vacancy on the Education Committee for a district court judge from Districts 1, 5, 6, 7 or 8. An announcement was sent to all district court judges of those districts and Judge Gordon Low has applied. Judge Low currently has no other committee assignments. The Board of District Court Judges recommends Judge Low's appointment to the Education Committee.

If these appointments are approved by the Management Committee, the matter will be placed on the Judicial Council's consent calendar, for final action.

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

TAB 7

Need for the Project (one page)

Domestic violence offenses increased 13% in Salt Lake City between 1999 and 2001. The city filed approximately 3,000 misdemeanor domestic violence cases with the U.S. Third District Court in 2001, and the Salt Lake City Police Department (SLCPD) responds to an average of 3,500 domestic violence calls each year. The majority of domestic violence offenses in the city involve crimes and violent acts committed against women. In a 1997 survey conducted by the Utah Governor's Commission for Women and Families, 80% of Utah women identified domestic violence as a serious problem in their community. In 200x, Salt Lake County District Attorney prosecuted xxxxx felony domestic violence cases within Salt Lake City.

Delays in the criminal justice systems' process of tracking the issuances and violations of protection orders increase the likelihood that victims will experience continued violence and abuse and a greater percentage of offenders avoid timely consequences for their violent actions. City, county, and state agencies currently operate at least five dissimilar computer systems recording domestic violence case data. Electronic barriers to multi-jurisdiction information exchange obstruct the criminal justice system's ability expedite offender accountability and ensure victim safety.

Salt Lake City Corporation is requesting for \$500,000 over two years to create the Protective Restraining Order Management Information System (PROMIS), a web-based inter-agency information-sharing network of criminal and civil domestic violence case data with the mission to facilitate of timely defendant accountability, improved victim safety, and improve coordination among government and non-government victim service support agencies for domestic violence cases occurring in Salt Lake City. The city has no related Federal grants

What Will be Done (five pages)

Salt Lake City's goal is to implement PROMIS, a web-based information system accessed by state, county, and city agencies and partner non-profit victim service providers for timely sharing of civil and criminal domestic violence case data. PROMIS is a pilot initiative developed by an ad-hoc committee consisting of government and non-government agencies serving victims of domestic violence in Salt Lake City. The ad-hoc committee members include: Legal Aid Society of Salt Lake, Salt Lake City Information Management Services (IMS), Salt Lake City Justice Courts, Salt Lake City Police Department (SLCPD), Salt Lake City Prosecutor's Office, Salt Lake County District Attorney, Utah Department of Public Safety/Bureau of Criminal Identification (Utah BCI), Utah Third District Court, and Young Women's Christian Association (YWCA) of Salt Lake City.

The ad-hoc committee identified the need for PROMIS during discussions of information barriers experienced by each agency in serving victims of domestic violence throughout the civil and criminal justice process. Dissident information sources within and across agencies are impacting the safety of victims of domestic violence and inadvertently place victims at risk for repeat abuse. Delays of 48 to 72 hours in communication of notice of protection order and non-contact order filings between Utah Third District Court, Salt Lake City Justice Court and Salt Lake City Prosecutor's Office can give offenders a sufficient window of opportunity to batter their victims after an initial offences. Confusion in the field between responding police officers, victim advocates, victims, and offenders regarding the status of protection and no-contact orders adds chaos to an already volatile situation. Additionally, post-protective civil cases involving divorce proceedings and child custody issues often take precedence over protective orders. Front

Develop PROMIS web-service for not-for-profit agencies	Salt Lake City IMS	July 2003 – June 2004
Provide initial training to PROMIS users and provide update training as needed	Salt Lake City IMS & Utah BCI	July 2004 – June 2005
Develop system design, plan, PROMIS implementation, continue collaborative agencies strategies for victim services	PROMIS ad-hoc committee	Quarterly meetings beginning July 2003 and ongoing
Provide one full-time court clerk for protective order scanning, production of CD-rom and hard copy of signed court documents for police and prosecutors	Utah Third District Court	To be in place by October 2003 and ongoing.
Provide one full-time Spanish speaking paralegal for victims of domestic violence and for updating post-protective order civil cases information into PROMIS	Legal Aid Society of Salt Lake	To be in place by October 2003 and ongoing.
Increase defendant accountability by providing patrol officers for 10 hours bi-weekly to execute Class A warrants.	Salt Lake City Police Department	July 2003 and ongoing
Increase defendant accountability by providing patrol officers for 10 hours a week to execute protection order violations and failures to appear in court.	Salt Lake City Police Department	July 2003 and ongoing
Implement use of PROMIS in serving victims of domestic violence.	Legal Aid Society of Salt Lake Salt Lake City Justice Courts Salt Lake City Police Department Salt Lake City Police Department Victim Advocate Program Salt Lake City Prosecutor's Office Salt Lake County District Attorney Office Utah Department of Public Safety YWCA of Salt Lake City	August 2004 and ongoing

Who Will Implement the Project (two pages)

Salt Lake City Corporation will serve as the fiscal agent for the project. Salt Lake City Police Department will act as the coordinating agency in administering the project activities, executing warrants and protection violations, and data collection of project statistics reported to the Office of Justice Programs. In addition, SLCPD detectives, victim advocates, and patrol officers will capture case data from the field in VERSADEx that partner agencies can access through PROMIS.

Utah BCI, Salt Lake City Justice Courts, and Utah Third District Court will provide the core data sources for civil and criminal case information through their respective data systems. Salt Lake City Prosecutor's Office will provide data from Prosecutor Dialogue to PROMIS.

Salt Lake City IMS is responsible for creating the web-service linking city data systems with Utah BCI's Utah Criminal Justice Information Network. Salt Lake City IMS will also develop and host the web-service providing non-profit partners with limited access to public information through PROMIS.

Utah Third District Court is responsible for issuing protection orders, ensuring court clerks electronically copy no-contact and protection orders, and provides electronic copies and hard copies of court orders to the Salt Lake City Prosecutor's Office and SLCPD. Utah BCI and IMS will train court clerks from Utah Third District Court and Salt Lake City Justice Courts to implement same-day scanning of court orders.

Legal Aid Society of Salt Lake is a collaborating private, non-profit organization for PROMIS. Since 1992, the organization has provided victims of domestic violence and low-income individuals with free, quality legal advice and representation. The agency is responsible

The Products (one page)

The creation of the PROMIS web-service is a tangible outcome of the project. The web-service for PROMIS is based on existing specifications currently used by Utah BCI for the Utah Criminal Justice Information System, which is accessed by all criminal justice agencies in the state. If successful, Utah BCI and Salt Lake City IMS will make the PROMIS web-service specifications available to other jurisdictions, municipalities, or agencies. Thereby, other agencies or cities can replicate PROMIS within their respective communities and link into the existing PROMIS network. The multi-jurisdictional applicability of the system could expand PROMIS to a seamless inter-agency information system throughout the state of Utah, allowing agencies to expedite state-wide offender accountability and ensure a greater measure of safety to victims of domestic violence.

The external evaluation of PROMIS is another tangible product realized from the project. The evaluation of the process and system outcomes will provide the collaborating agencies with a quantified impact of PROMIS on victims' safety and offender prosecution. In addition, the evaluation results will guide the ad-hoc committee in design revisions to the system, identifying additional service barriers experienced by victims, and devising long-range sustainability plans for PROMIS.

An additional outcome of PROMIS is increased victim confidence in the judicial system and improved victim trust in law enforcement. An increase in the rate of charges brought against abusers will support the efficacy to the efforts of the PROMIS pilot program. The ad-hoc committee will request that Bach-Harrison Evaluation Services develop data collection tools to measure changes in victims' attitudes toward the judicial system and law enforcement and rates of

Sustainability Plan (one page)

PROMIS is a pilot-program to test the ability of inter-agency electronic information sharing to support the effective and timely prosecution of batterers. The project entails both technological systems and human generated information. The majority of technological coordination is between Utah BCI and Salt Lake City IMS. The initial cost of the project covers the development and purchase of the electronic infrastructure and the purchase of protection order scanning equipment for Utah Third District Court. Technological sustainability will entail ongoing maintenance already provided by Utah BCI, Salt Lake City IMS, and Utah Third District Court to their respective departments. All entities will strive to secure additional technology resources, if needed, to maintain PROMIS after the conclusion of the funding period.

Additionally, the grant will provide two full-time employee positions, one for the Utah Third District Court and one for Legal Aid Society of Salt Lake. Each agency will either raise funds or take steps to secure additional operational funding to sustain the two positions for a minimum of one year after the conclusion of the funding period.

Finally, contracted translation services and police overtime in serving warrants will continue, if proven effective, in reducing barriers for non-English speaking victims and expediting defendant accountability. These factors will be determined through the final evaluation process.

PROMIS has been needed, and indeed discussed for many years by the collaborating agencies. Already the collaboration has resulted in better communication between agencies, and better, more effective practices by the partners. Sustaining the inter-agency communication will be an important issue to all participating agencies, as well as sustaining the PROMIS project that is developed through federal funding.

TAB 8



Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

To: Judicial Council
From: Tim Shea *SL*
Date: February 13, 2003
Re: Certification for senior judge appointments

Judges Ray Harding, Sr., Stanton Taylor, Alfred Van Wangenen and Jeril Wilson have applied to be senior judges. Their applications and the results of their most recent attorney and, as applicable, juror surveys are attached. Certification to the Supreme Court for his appointment appears to be in order.

For Judge Harding and Judge Van Wagenen there has been an interim between their retirement and this application, so they have no judicial education hours to report for the most recent years. Also, their most recent surveys were conducted in 1993 for the 1994 election. We do not have detailed results for that year, but the report in the voter information pamphlet for 1994 shows that all the scores were above 70%.

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efficient, and independent system for the advancement of justice under the law.

LEGISLATION REVIEWED BY LIAISON COMMITTEE

BILL #	BILL TITLE	COMMITTEE POSITION
House Bills		
H.B. 6 (1 st Sub.)	Shared Parenting By Divorcing Parents	No position
H.B. 10	Parent-Time Amendments	No position, but refer this proposal to the Judicial Council for input and express concern with the mandated sanctions for substantial noncompliance of a parent-time order.
H.B. 57	Expansion of Protective Order	No position
H.B. 70	Assault Amendments	No position
H.B. 76	Truancy Amendments	No position
H.B. 85	Hate Crime Amendments	No position
H.B. 93	Suspension of Driving Privileges for Habitual Truants	Support, but recommend changing the designated time from "one year" to "up to one year."
H.B. 96	Judicial Conduct Commission Amendments	No position, but recommend replacing the word "Legislature" with the phrase "Legislative Auditor General" on line 119.
H.B. 104	Disposal of Evidence in Criminal Proceedings	No position
H.B. 107	DNA Amendments	No position, but express appreciation for amendments made.
H.B. 112 (1 st Sub.)	County Correctional Facility Reimbursement	No position
H.B. 117	Prelitigation Panel Amendments	Opposed as proposed
H.B. 119	Judicial Conduct Commission Revisions	Opposed
H.B. 133	Expedited Child Welfare Procedures	No position, but suggest that lines 42-43 be deleted because it is unclear what this requirement means since a pretrial hearing is required within 15 calendar days from the date of the shelter hearing or the filing of the petition.
H.B. 163	Criminal Restitution Amendments	No position, but have staff draft a fiscal note for the bill and express caution that the language may be too open-ended.
H.B. 201	Judiciary Amendments	Support
H.B. 215 (1 st Sub.)	State Agency - Lobbyist Restriction Amendments	Opposed because the bill is too broad with ambiguous language that conflicts with existing statutory language.
H.B. 222	Child Welfare Proceedings Amendments	No position

H.B. 230 (1 st Sub.)	Parental Relocation Amendments	No position, but suggest that the word "willfully" be added to line 126 before "fails to comply."
H.B. 234	Administrative Treatment of Traffic Violations - Technical Amendments	Support
H.B. 238	Utah Code of Criminal Procedure Amendments	Opposed because this should be treated in the rule-making context rather than as a statute.
H.B. 239	Parent-Time Assistance Office	No position, but express concern with line 100 which states that the "office may also order make-up parent-time at up to twice the amount denied" because this would be modifying the divorce decree.
H.B. 285	False Allegations in Divorce Proceedings	Opposed because the amendments take away judicial discretion.
H.B. 325	Court-Ordered Counseling	Opposed because it frustrates court control over remedies of treatment, it does not require expertise of the clergy in the type of counseling needed and possible problems with confidentiality issues.
H.B. 349	Practice of Law Amendments	Oppose the bill because it narrows the definition of the practice of law, it does not address the practice of law in courts not of record and it may open the unauthorized practice of law.
H.B. 371	Court Security Fee	Support
H.J.R. 3 (1 st Sub.)	Resolution on Offers for Settlement of Cases	No position
H.J.R. 7 (1 st Sub.)	Resolution on Special Sessions of the Legislature	No position
Senate Bills		
S.B. 8	Sentencing in Capital Cases Amendments	No position, but note that definitions should be cleaned up.
S.B. 13	DUI Plea Restrictions	No position
S.B. 20	Facilitation of E-Government	Deferred taking a position, but convey concerns with the broad language in the proposal requiring court documents to be transacted electronically and suggest that court documents be excluded or that the courts be allowed to define by court rule which court documents or transactions are incrementally approved for electronic transaction.
S.B. 25	Commitment and Custody of Adults and Minors Amendments	No position
S.B. 27	Involuntary Commitment Amendments	No position
S.B. 29	Legislative Access to Certain Information	No position, but recommend striking the word "easily" from line 222.
S.B. 31	Property Forfeiture Amendments	Support the notion that an appropriate use of forfeiture proceeds is to support drug courts.

S.B. 44	Tort Reform Amendments	No position
S.B. 67	Revisions to Boards and Commissions	No position, but express concern with the possibility of the courts regulating the certified shorthand reporters since not all certified shorthand reporters do business with the courts and the courts do not regulate other private groups.
S.B. 79 (1 st Sub.)	Disabled Parking Fine	No position
S.B. 93	Reappointment of County Justice Court Judges	Opposed
S.B. 93 (1 st Sub.)	Justice Court Judges Amendments	
S.B. 111	Process Servers	No position, but recommend changing the term "bench warrants" to "arrest warrants"
S.B. 116	DNA - Amendment Regarding Warrants	No position
S.B. 128	Protective Order Amendments	Support and suggest changing the term "dismissed" to "expire"
S.B. 132 (1 st Sub.)	Child Support and Paternity Amendments	No position
S.B. 136	Guilty and Mentally Ill Sentencing Amendments	No position
S.B. 158	Division of Child and Family Services Management Information System Amendments	No position
S.B. 195	Obstruction of Justice and Tampering With Evidence	No position
S.B. 199	Limitations on Informal Judicial Reprimands	Opposed
S.B. 205	Tobacco Marketing Practices Restrictions	No position
S.B. 208	Warrant for Removal of Minor From Home	No position, but suggest that the word "will" be changed to "may" on line 97 and change the word "and" to "or" on line 100.
S.B. 223	Revisions to Parent Time	No position, but support the amendment on lines 241-243 that extends the sunset date for the Expedited Parent-time Enforcement Program in the Third District Court.
S.J.R. 3	Resolution Providing For Contested Judicial Elections	Opposed

JUDICIAL CONDUCT COMMISSION

REVISIONS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Katherine M. Bryson

This act modifies provisions pertaining to the Judicial Conduct Commission. The act clarifies that a judge formally charged with a crime may be suspended without pay by the Supreme Court. The act also requires that the judge be acquitted and reinstated to judicial office to receive pay and benefits lost during the suspension. This act also provides circumstances under which the Supreme Court may suspend or remove a judge on its own motion.

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

AMENDS:

78-8-103, as renumbered and amended by Chapter 148, Laws of Utah 2000

78-8-104, as last amended by Chapter 331, Laws of Utah 2002

78-8-107, as last amended by Chapter 331, Laws of Utah 2002

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

Section 1. Section **78-8-103** is amended to read:

78-8-103. Grounds for reprimand, censure, suspension, removal, or involuntary retirement of justice, judge, or justice court judge -- Suspension.

(1) The commission may issue an order, subject to the Supreme Court's review and issuance of a final order implementing, rejecting, or modifying the commission's order, that any judge be reprimanded, censured, suspended, removed from office, or involuntarily retired, for:

(a) action which constitutes willful misconduct in office;

(b) final conviction of a crime punishable as a felony under state or federal law;

(c) willful and persistent failure to perform judicial duties;

(d) disability that seriously interferes with the performance of judicial duties; or

the chief justice has a reasonable basis to believe that the alleged crime occurred, that the appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore committed the crime, and that crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.

(2) (a) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a misdemeanor or felony under state or federal law has been committed by the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to two justices of the Supreme Court.

(b) Two justices of the Supreme Court may place the chief justice of the Supreme Court on administrative leave with ~~h~~ ~~[, without, or with reduced]~~ OR WITHOUT ~~h~~ pay if the two justices have a

reasonable basis to believe that the alleged crime occurred, that the chief justice committed the crime, and that crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.

(3) (a) If a judge is or has been criminally charged or indicted for a class A misdemeanor or any felony under state or federal law and if the Supreme Court has not already acted under Subsection (1) or (2), the appropriate member or members of the Supreme Court as provided in Subsection (1) or (2), shall place the judge on administrative leave[;] with ~~h~~ ~~[, without,~~
~~or with reduced]~~ OR WITHOUT ~~h~~ pay[;] pending the outcome of the criminal proceeding.

(b) The administrator of the courts shall, for the duration of the administrative leave or suspension, withhold all employer and employee contributions required under Sections 49-17-301 and 49-18-301.

(c) If the judge is not convicted of the criminal charge, and if after an investigation and final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or compensation for the period of suspension, and all contribution withheld under Subsection (3)(b) shall be deposited in accordance with Sections 49-17-301 and 49-18-301.

(4) The chief justice of the Supreme Court or two justices of the Supreme Court who ordered the judge on administrative leave ~~[with pay,]~~ shall order the reinstatement of the judge:

(a) if the prosecutor to whom the allegations are referred by the commission as

121 (iii) the Judicial Council for its use in the judicial recertification process;
122 (iv) the Supreme Court for issuance of its final order as provided in Subsection (7); and
123 (v) the person who appointed the municipal justice court judge; and
124 (d) may, with the written consent of the judge receiving the informal order of
125 reprimand under Subsection (2)(c), publicly disclose the commission's informal order of
126 reprimand.

127 (3) The commission shall provide the judge with all information necessary to prepare
128 an adequate response or defense, which may include the identity of the complainant.

129 (4) (a) A hearing may be conducted before a quorum of the commission.

130 (b) Any finding or order shall be made upon a majority vote of the quorum.

131 (5) Alternatively, the commission may appoint three special masters, who are judges of
132 courts of record, to hear and take evidence in the matter and to report to the commission.

133 (6) (a) After the hearing or after considering the record and report of the masters, if the
134 commission finds by a preponderance of the evidence that misconduct occurred, it shall order
135 the formal reprimand, censure, suspension, removal, or involuntary retirement of the judge.

136 (b) When a commission order is sent to the Supreme Court, it shall also be:

37 (i) publicly disclosed; and

138 (ii) sent to the ~~in~~ person or entity who ENTITY THAT ~~in~~ appointed the judge.

139 (c) Subsection (6)(b)(i) does not apply to a commission informal order of reprimand.

140 (7) When the commission issues any order, including a stipulated order, that is sent to
141 the Supreme Court, the record shall include:

142 (a) the original complaint and any other information regarding violations, or potential
143 violations, of the Code of Judicial Conduct;

144 (b) the notice of charges;

145 (c) all correspondence and other documents which passed between the commission and
146 the judge;

147 (d) all letters which may explain the charges;

148 (e) all affidavits, subpoenas, and testimony of witnesses;

149 (f) the commission's findings of fact and conclusions of law;

150 (g) a transcript of any proceedings, including hearings on motions;

151 (h) a transcript of the evidence;

Subsection (5), or the Supreme Court may not be introduced in any civil action.

(b) The transmission, production, or disclosure of any complaints, papers, or testimony in the course of proceedings before the commission or the masters appointed under Subsection (5) may be introduced in any criminal action, consistent with the Utah Rules of Evidence. This information shall be shared with the prosecutor conducting a criminal investigation or prosecution of a judge as provided in Subsections (1) and (2).

(c) Complaints, papers, testimony, or the record of the commission's confidential hearing may not be disclosed by the commission, masters, or any court until the Supreme Court has entered its final order in accordance with this section, except:

- (i) upon order of the Supreme Court;
- (ii) upon the request of the judge who is the subject of the complaint;
- (iii) as provided in Subsection (10)(d); or
- (iv) to aid in a criminal investigation or prosecution as provided in Subsections (1) and (2).

(d) Upon the dismissal of a complaint or allegation against a judge, the dismissal shall be disclosed without consent of the judge to the person who filed the complaint.

(11) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

(12) A judge who is a member of the commission or the Supreme Court may not participate in any proceedings involving the judge's own removal or retirement.

(13) Retirement for involuntary retirement as provided in this chapter shall be processed through the Utah State Retirement Office, and the judge retiring shall meet the requirements for retirement as specified in this chapter.

Legislative Review Note

as of 1-28-03 6:44 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

**LIMITATIONS ON INFORMAL JUDICIAL
REPRIMANDS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Thomas

This act modifies provisions regarding the Judicial Conduct Commission, limiting the issuance of informal reprimands to certain circumstances.

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

AMENDS:

78-8-107, as last amended by Chapter 331, Laws of Utah 2002

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

Section 1. Section **78-8-107** is amended to read:

78-8-107. Authority of Judicial Conduct Commission -- Disclosure of criminal misconduct or information -- Procedure for reprimand, censure, removal, suspension, or involuntary retirement -- Certain orders made public.

(1) (a) The commission shall receive and investigate any complaint against a judge.

(b) (i) If the commission receives a complaint that alleges conduct that may be a misdemeanor or felony under state or federal law, it shall, unless the allegation is plainly frivolous, immediately refer the allegation of criminal misconduct and any information relevant to the potential criminal violation to the local prosecuting attorney having jurisdiction to investigate and prosecute the crime.

(ii) If the local prosecuting attorney receiving the allegation of criminal misconduct of a judge practices before that judge on a regular basis, or has a conflict of interest in investigating the crime, the local prosecuting attorney shall refer this allegation of criminal misconduct to another local or state prosecutor who would not have that same disability or conflict.

(iii) The commission may concurrently proceed with its investigation of the complaint

if the commission finds by a preponderance of the evidence that misconduct occurred, it shall order the reprimand, censure, suspension, removal, or involuntary retirement of the judge.

(b) When a commission order is sent to the Supreme Court, it shall also be:

(i) publicly disclosed; and

(ii) sent to the person or entity who appointed the judge.

(c) Subsection ~~[(6)]~~ (7)(b)(i) does not apply to a commission informal order of reprimand.

~~[(7)]~~ (8) When the commission issues any order, including a stipulated order, that is sent to the Supreme Court, the record shall include:

(a) the original complaint and any other information regarding violations, or potential violations, of the Code of Judicial Conduct;

(b) the notice of charges;

(c) all correspondence and other documents which passed between the commission and the judge;

(d) all letters which may explain the charges;

(e) all affidavits, subpoenas, and testimony of witnesses;

(f) the commission's findings of fact and conclusions of law;

(g) a transcript of any proceedings, including hearings on motions;

(h) a transcript of the evidence;

(i) a summary of all the complaints dismissed by the commission against the judge which contained allegations or information similar in nature to the misconduct under review by the Supreme Court;

(j) a summary of all the orders implemented, rejected, or modified by the Supreme Court against the judge; and

(k) all information in the commission's files on any informal resolution, including any letter of admonition, comment, or caution, that the commission issued against the judge prior to May 1, 2000.

~~[(8)]~~ (9) (a) Before the implementation, rejection, or modification of any commission order issued under Subsections (2), ~~[(6)]~~ (7), and ~~[(7)]~~ (8) the Supreme Court shall:

(i) review the commission's proceedings as to both law and fact and may permit the introduction of additional evidence; and

21 (iv) to aid in a criminal investigation or prosecution as provided in Subsections (1) and
22 (2).

123 (d) Upon the dismissal of a complaint or allegation against a judge, the dismissal shall
124 be disclosed without consent of the judge to the person who filed the complaint.

125 [~~(11)~~] (12) The commission shall make rules in accordance with Title 63, Chapter 46a,
126 Utah Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

127 [~~(12)~~] (13) A judge who is a member of the commission or the Supreme Court may not
128 participate in any proceedings involving the judge's own removal or retirement.

129 [~~(13)~~] (14) Retirement for involuntary retirement as provided in this chapter shall be
130 processed through the Utah State Retirement Office, and the judge retiring shall meet the
131 requirements for retirement as specified in this chapter.

Legislative Review Note

as of 2-14-03 7:33 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

1 **PRACTICE OF LAW AMENDMENTS**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Stephen H. Urquhart**

5 **This act defines the practice of law and states that only persons admitted by the Supreme**
6 **Court may practice law in this state.**

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

8 **REPEALS AND REENACTS:**

9 **78-9-101**, as enacted by Chapter 3, Laws of Utah 2001, Second Special Session

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

11 Section 1. Section **78-9-101** is repealed and reenacted to read:

12 **78-9-101. Practice of law defined -- Who may practice.**

13 (1) The term "practice law" means appearing as an advocate before any court of record
14 in this state in a representative capacity on behalf of another person.

15 (2) Only persons who have been admitted by the Supreme Court of this state to practice
16 law may practice or hold themselves out as licensed to practice law in this state.

17 (3) A person may not use "J.D.", "Esq.", "attorney", or "attorney-at-law" on business
18 cards, signs, advertisements, or official documents as those terms are used to indicate status as
19 an attorney, unless licensed to practice law.

Legislative Review Note

as of 2-17-03 11:30 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

HB0349