

RESOLUTION No. 11-01-2019

**A RESOLUTION REQUESTING THE RECERTIFICATION
OF THE SANTAQUIN JUSTICE COURT**

WHEREAS, the provisions of U.C.A. § 78A-7-103 require that Justice Courts be recertified at the end of each four-year term; and

WHEREAS, the term of the present Santaquin Justice Court shall expire during the month of February, 2020; and

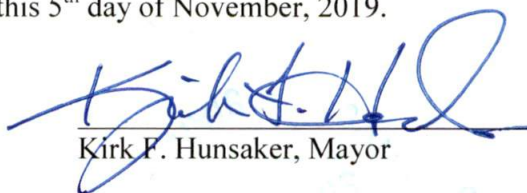
WHEREAS, the members of the Santaquin City Council have received an opinion letter from Brett B. Rich, Attorney, which sets forth the requirements for the operation of a Justice Court and feasibility of continuing to maintain the same; and

WHEREAS, the members of the Santaquin City Council have determined that it is to the best interests of the City of Santaquin to continue to provide for a Justice Court;

NOW THEREFORE, BE IT RESOLVED, the SANTAQUIN CITY COUNCIL hereby requests recertification of the Santaquin City Court by the Justice Courts Standards Committee and the Utah Judicial Council.

BE IT FURTHER RESOLVED that the CITY COUNCIL of SANTAQUIN CITY hereby affirms its willingness to continue to meet all requirements set forth by the Judicial Council for continued operation of the Santaquin City Court for the next four-year court term, except as to any requirements waived by the Utah Judicial Council.

PASSED AND APPROVED this 5th day of November, 2019.


Kirk F. Hunsaker, Mayor

ATTEST:


K. Aaron Shirley, City Recorder



A PROFESSIONAL CORPORATION

P.O. Box 970663
Orem, Utah 84097

BRETT B. RICH
bbr@ns-law.com

October 16, 2019

Mayor Kirk F. Hunsaker
Santaquin City
275 West Main Street
Santaquin, UT 84655

Re: Recertification of the Santaquin Justice Court

Dear Mayor Hunsaker:

The law firm of Nielsen & Senior is acting as counsel for the City of Santaquin with Brett B. Rich being the attorney responsible for that representation. This letter is provided as the written opinion advising the City of Santaquin of requirements for the operation of a justice court and the feasibility of maintaining a justice court, which opinion is required by the Justice Court Standards for Recertification.

The Santaquin Justice Court has been certified as a Justice Court for many years. It is presently located on the second floor of the Santaquin City Administration Building, with a physical and mailing address of 275 West Main Street, Santaquin, Utah 84655. Pursuant to the terms of two separate Interlocal Agreements, this facility is also the location of the Genola Justice Court, and the Goshen Justice Court. Pursuant to additional and separate Interlocal Agreements, the City of Santaquin also employs the Justice Court Judge, who has been appointed by the Genola Town Council and the Goshen Town Council as the Justice Court Judge for the justice courts of those respective municipalities. Those same Interlocal Agreements also provide for clerical staff and law enforcement support for those additional justice courts. However, each of these justice courts continues to be operated separately, and the records of each court are kept and maintained separately. This opinion addresses only the Santaquin Justice Court and not the separate justice courts of the Towns of Genola or Goshen.

Santaquin City has provided certain documents for our review as they may affect this opinion. For purposes of this opinion, we have assumed the accuracy, genuineness and authenticity of all documents submitted as originals, and in examining copies, we have assumed the genuineness and authenticity of all submitted documents and know of no reason why we should not rely thereon.

We also understand that the City of Santaquin has appointed the Honorable Sharla Williams as Justice Court Judge for the Santaquin Justice Court. However, this opinion is limited

to the recertification of the Santaquin Justice Court and does not concern any issues that may or may not arise concerning the employment or retention of Judge Williams.

Based on, and subject to, the foregoing and pursuant to the Justice Court standards for recertification, we advise the City of Santaquin of the following requirements for the operation of a justice court. We note that many of these requirements have been summarized in the recertification information sent to the City of Santaquin by the Administrative Office of the Courts, and hereby include those requirements as a part of this opinion by reference.

Utah Code Ann. § 78A-7-102 authorizes a municipality to create a justice court. The class of the justice court is determined by applying the criteria found in § 78A-7-101(2). Based on our understanding that during the period beginning from June 30, 2018 and ending July 1, 2019, the total number of cases filed each month in the Santaquin Justice Court was 1,453, the Santaquin Justice Court is designated as a Class III justice court. And that if combined with the total number of cases filed in the Genola Justice Court and the Goshen Justice Court, the total number of cases still falls within the range required for designation as a Class III justice court. Utah Code Ann. § 78A-1-101(2)(c). We do not express any opinion regarding the designation of the Genola Justice Court or the Goshen Justice Court in the event the number of cases in the three justice courts are not combined, or in the event that either the Genola Justice Court, or the Goshen Justice Court is not recertified.

Because some of the statutory requirements for the justice court operations have been amended since the last recertification many, but not all the statutory requirements are set forth below.

Utah Code Ann. § 78A-7-105 (2)
Territorial jurisdiction.

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

Utah Code Ann. § 78A-7-106
Jurisdiction.

(1) Justice courts have jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within their territorial jurisdiction by a person 18 years of age or older.

(2) Except those offenses over which the juvenile court has exclusive jurisdiction, justice courts have jurisdiction over the following class B and C misdemeanors, violation of ordinances, and infractions committed within their territorial jurisdiction by a person 16 or 17 years of age:

(a) Class C misdemeanor and infraction violations of Title 53, chapter 3, Part 2, Driver Licensing Act;

(b) Class B and C misdemeanor and infraction violations of:

- (i) Title 23, Wildlife Resources Code of Utah;
- (ii) Title 41, Chapter 1a, Motor Vehicle Act;
- (iii) Title 41, Chapter 6a, Traffic Code;
- (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;
- (v) Title 41, Chapter 22, Off-Highway Vehicles;
- (vi) Title 73, Chapter 18, State Boating Act;
- (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
- (viii) Title 73, Chapter 18b, Water Safety; and
- (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

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

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

- (a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;
- (b) either a person committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;
- (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;
- (d) a person commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;
- (e) a person solicits, aids, or abets, or attempts to solicit, aid, or abet another person in the planning or commission of an offense within the court's jurisdiction;
- (f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:
 - (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;
 - (ii) (A) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; and
(B) as used in Subsection (4)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;
- (iii) a person who commits theft exercises control over the affected property within the court's jurisdiction; or
- (iv) the offense is committed on or near the boundary of the court's jurisdiction;
- (g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or
- (h) jurisdiction is otherwise specifically provided by law.

(5) A justice court judge may transfer a matter in which the defendant is a child to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs

that the best interests of the child would be served by the continuing jurisdiction of the juvenile court subject to Section 78A-6-602.

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

Utah Code Ann. § 78A-7-118

Appeals from justice court -- Trial or hearing de novo in district court.

(1) In a criminal case, a defendant is entitled to a trial de novo in the district court only if the defendant files a notice of appeal within 28 days of:

- (a) sentencing, except as provided in Subsection (4)(b); or
- (b) a plea of guilty or no contest in the justice court that is held in abeyance.

(2) Upon filing a proper notice of appeal, any term of a sentence imposed by the justice court shall be stayed as provided for in Section 77-20-10 and the Rules of Criminal Procedure.

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

(4) A defendant convicted and sentenced in justice court is entitled to a hearing de novo in the district court on the following matters, if the defendant files a notice of appeal within 28 days of:

- (a) an order revoking probation;
- (b) imposition of a sentence, following a determination that a defendant failed to fulfill the terms of a plea in abeyance agreement;
- (c) an order denying a motion to withdraw a plea, if the plea is being held in abeyance and the motion to withdraw the plea is filed within 28 days of the entry of the plea;
- (d) a postsentence order fixing total or court ordered restitution; or
- (e) an order denying expungement.

(5) The prosecutor is entitled to a hearing de novo in the district court if an appeal is filed within 28 days of the court entering:

- (a) a final judgment of dismissal;
- (b) an order arresting judgment;
- (c) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;
- (d) a judgment holding invalid any part of a statute or ordinance;
- (e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence prevents continued prosecution of an infraction or class C misdemeanor;
- (f) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence impairs continued prosecution of a class B misdemeanor;
- (g) an order granting a motion to withdraw a plea of guilty or no contest;
- (h) an order fixing total restitution at an amount less than requested by a crime victim; or

- (i) an order granting an expungement, if the expungement was opposed by the prosecution or a victim before the order was entered.
- (6) Upon entering a decision in a hearing de novo, the district court shall remand the case to the justice court unless:
 - (a) the decision results in immediate dismissal of the case; or
 - (b) the hearing de novo was on a pretrial order and the parties and the district court agree to have the district court retain jurisdiction.
- (7) The district court shall retain jurisdiction over the case on trial de novo.
- (8) The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.

Utah Code Ann. § 78A-7-120

Disposition of fines.

- (1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, $\frac{1}{2}$ to the treasurer of the local government responsible for the court and $\frac{1}{2}$ to the treasurer of the local government which prosecutes or which would prosecute the violation. An interlocal agreement created pursuant to title 11, chapter 13, Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section if the parties agree.
- (2) (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or county government responsible for the justice court.
- (b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and 15% to the general fund of the city or county government responsible for the justice court.
- (c) Fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310 shall be remitted:
 - (i) 20% to the school district or private school that owns or contracts for the use of the school bus; and
 - (ii) 80% in accordance with Subsection (1).
- (3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer.
- (4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and distributed to the class B and C road account.
- (5) Revenue allocated for class B and C roads pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and C road funds.

(6) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

- (i) 60% to the state treasurer to be deposited in the Transportation Fund; and
- (ii) 40% in accordance with Subsection (1).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

- (i) 50% to the state treasurer to be deposited in the Transportation Fund; and
- (ii) 50% in accordance with Subsection (1).

Utah Code Ann. § 78A-7-121

Funds collected -- Deposits and reports -- Special account -- Accounting.

(1) (a) Justice courts shall deposit public funds in accordance with Section 51-4-2.

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

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

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

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

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

Utah Code Ann. § 78A-7-122

Security surcharge -- Application -- Deposit in restricted accounts.

(1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of \$50 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations.

(2) The security surcharge shall be collected and distributed pro rata with any fine collected. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.

(3) Eighteen dollars of the security surcharge shall be remitted to the state treasurer and distributed to the Court Security Account created in Section 78A-2-602.

(4) Thirty-two dollars of the security surcharge shall be allocated as follows:

(a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and

(b) 80% shall be remitted to the state treasurer to be distributed as follows:

- (i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located;
 - (ii) 25% to the Court Security Account created in Section 78A-2-602; and
 - (iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78A-7-301.
- (5) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Utah Code Ann. § 78A-7-123

Dissolution of justice courts.

- (1) (a) The county or municipality shall obtain legislative approval to dissolve a justice court if the caseload from that court would fall to the district court upon dissolution.
- (b) To obtain approval of the Legislature, the governing authority of the municipality or county shall petition the Legislature to adopt a joint resolution to approve the dissolution.
- (c) The municipality or county shall provide notice to the Judicial Council.
- (d) Notice of intent to dissolve a Class I or Class II justice court to the Judicial Council shall be given not later than July 1 two years prior to the general session in which the county or municipality intends to seek legislative approval.
- (e) Notice of intent to dissolve a Class III or Class IV justice court to the Judicial Council shall be given not later than July 1 immediately prior to the general session in which the county or municipality intends to seek legislative approval.
- (2) (a) A county or municipality shall give notice of intent to dissolve a justice court to the Judicial Council if the caseload of that court would fall to the county justice court. A municipality shall also give notice to the county of its intent to dissolve a justice court.
- (b) Notice of intent to dissolve a Class I or Class II court shall be given by July 1 at least two years prior to the effective date of the dissolution.
- (c) Notice of intent to dissolve a Class III or Class IV court shall be given by July 1 at least one year prior to the effective date of the dissolution.
- (3) Upon request from a municipality or county seeking to dissolve a justice court, the Judicial Council may shorten the time required between the city's or county's notice of intent to dissolve a justice court and the effective date of the dissolution.

Utah Code Ann. § 78A-7-201.

Justice court judge eligibility – Mandatory retirement.

- (1) A justice court judge shall be:
- (a) a citizen of the United States;
 - (b) twenty-five years of age or older;
 - (c) a resident of Utah for at least three years immediately preceding his appointment;

- (d) a resident of the county in which the court is located, or an adjacent county for at least six months immediately preceding appointment; and
- (e) a qualified voter of the county in which the judge resides.
- (2) Effective May 10, 2016, a justice court judge is not required to be admitted to practice law in the state as a qualification to hold office but:
 - (a) in counties of the first and second class, a justice court judge shall have a degree from a law school that makes one eligible to apply for admission to a bar in any state; and
 - (b) in counties of the third, fourth fifth, and sixth class, a justice court judge shall have at the minimum, a diploma of graduation from high school or its equivalent.
- (3) A justice court judge shall be a person who has demonstrated mature of judgment, integrity, and the ability to understand and apply appropriate law with impartiality.
- (4) A justice court judge shall retire upon attaining the age of 75 years.
- (5) In counties of the first and second class, if there are not at least three applicants for a justice court judge position who meet the requirements of Subsection (2)(a), the justice court nominating commission shall re-advertise the position, and may accept applications from persons who do not meet the requirements of Subsections (1)(d) and (2)(a).
- (6) (a) in accordance with Subsection 78A-7-202(3), the Administrative Office of the Courts shall provide notice to all attorneys in the county and adjacent counties when a justice court judge position is vacant.
(b) If the justice court nominating commission waives the requirement of Subsection (1)(d) in accordance with Subsection (5), the Administrative Office of the Courts shall provide notice to all attorneys in the state.
- (7) A justice court judge holding office on May 10, 2016, who does not meet the qualification in Subsection (2)(a) may continue in the judge's position until the judge resigns, retires, is not retained in a retention election, or is removed from office.

Utah Code Ann. § 78A-7-202.

Justice court judges to be appointed -- Procedure.

- (1) As used in this section:
 - (a) "Local government executive" means:
 - (i) for a county:
 - (A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;
 - (B) the county executive in a county operating under the county executive-council form of county government; and
 - (C) the county manager in a county operating under the council-manager form of county government;
 - (ii) for a city or town:
 - (A) the mayor of the city or town; or

(B) the city manager, in the council-manager form of government described in Subsection 10-3b-103(7); and

(iii) for a metro township, the chair of the metro township council.

(b) "Local legislative body" means:

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

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

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

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

(i) one member appointed by:

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council. Upon completion of the orientation program, the Judicial Council shall certify the justice court judge as qualified to hold office.

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

Utah Code Ann. § 78A-7-203

Term of office for justice court judge.

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

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

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

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

(3) Before each retention election, each justice court judge shall be evaluated in accordance with the performance evaluation program established in Chapter 12, Judicial Performance Evaluation Commission Act.

(4) A political subdivision in a county of the first or second class that has more than one justice court judge and the weighted caseload per judge is lower than 0.60 as determined by the Administrative Office of the Courts may, at the political subdivision's discretion and at the end of a judge's term of office, initiate a reduction in force and reduce, lay off, terminate, or eliminate a judge's position pursuant to the political subdivision's employment policies.

(5) A political subdivision in a county of the first or second class may only add a new position if the Judicial Council, after considering the caseload of the court, approves creation of the position.

Utah Code Ann. § 78A-7-204.

Offices of justice court judges.

(1) Justice court judges holding office in:

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

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

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

(3) (a) The governing body may create as many judicial positions as are required for the efficient administration of the justice court.

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(b) If more than one judge is assigned to a court, all filings within that court shall be assigned to the judges at random unless the governing body has been authorized to create specialized judicial calendars to serve the interests of justice.

Utah Code Ann. § 78A-7-205.

Required training -- Expenses -- Failure to attend.

- (1) A justice court judge shall meet the continuing education requirements of the Judicial Council.
- (2) Successful completion of the continuing education requirement includes instruction regarding competency and understanding of constitutional provisions and laws relating to the jurisdiction of the court, rules of evidence, and rules of civil and criminal procedure as indicated by a certificate awarded by the Judicial Council.
- (3) The Judicial Council shall file a formal complaint with the Judicial Conduct Commission against each justice court judge who does not comply with this section.

Utah Code Ann. § 78A-7-206

Determination of compensation and limits - Salary survey - Limits on secondary employment – Prohibition on holding political or elected office - Penalties.

- (1) Every justice court judge shall be paid a fixed compensation determined by the governing body of the respective municipality or county.
 - (a) The governing body of the municipality or county may not set a full-time justice court judge's salary at less than 50% nor more than 90% of a district court judge's salary.
 - (b) The governing body of the municipality or county shall set a part-time justice court judge's salary as follows:
 - (i) The governing body shall first determine the full-time salary range outlined in Subsection (1)(a).
 - (ii) The caseload of a part-time judge shall be determined by the office of the state court administrator and expressed as a percentage of the caseload of a full-time judge.
 - (iii) The judge's salary shall then be determined by applying the percentage determined in Subsection (1)(b)(ii) against the salary range determined in Subsection (1)(a).
 - (c) A justice court judge shall receive an annual salary adjustment at least equal to the average salary adjustment for all county or municipal employees for the jurisdiction served by the judge.
 - (d) Notwithstanding Subsection (1)(c), a justice court judge may not receive a salary greater than 90% of the salary of a district court judge.
 - (e) A justice court judge employed by more than one entity as a justice court judge, may not receive a total salary for service as a justice court judge greater than the salary of a district court judge.
- (2) A justice court judge may not appear as an attorney in any:
 - (a) justice court;
 - (b) criminal matter in a federal, state, or local court; or

- (c) juvenile court case involving conduct which would be criminal if committed by an adult.
- (3) A justice court judge may not hold any office or employment including contracting for services in any justice agency of state government or any political subdivision of the state including law enforcement, prosecution, criminal defense, corrections, or court employment.
- (4) A justice court judge may not hold any office in any political party or organization engaged in any political activity or serve as an elected official in state government or any political subdivision of the state.
- (5) A justice court judge may not own or be employed by any business entity which regularly litigates in small claims court.
- (6) The Judicial Council shall file a formal complaint with the Judicial Conduct Commission for each violation of this section.

Utah Code Ann. § 78A-7-207

Compensation -- Annual review and adjustment.

- (1) The governing body of each municipality or county shall annually review and may adjust the compensation paid.
- (2) The salary fixed for a justice court judge may not be diminished during the term for which the judge has been appointed or elected.
- (3) A copy of the resolution, ordinance, or other document fixing the salary of the justice court judge and any adjustments to the document shall be furnished to the state court administrator by the governing body of the municipality or county.

Utah Code Ann. § 78A-7-208

Temporary justice court judge.

When necessary, the governing body may appoint any senior justice court judge, or justice court judge currently holding office within the judicial district, or in an adjacent county, to serve as a temporary justice court judge.

Utah Code Ann. § 78A-7-210

Justice court judge administrative responsibilities.

- (1) Justice court judges shall comply with and ensure that court personnel comply with applicable county or municipal rules and regulations related to personnel, budgets, and other administrative functions.
- (2) Failure by the judge to comply with applicable administrative county or municipal rules and regulations may be referred, by the county executive or municipal legislative body, to the state Justice Court Administrator.
- (3) Repeated or willful noncompliance may be referred, by the county executive or municipal legislative body, to the Judicial Conduct Commission.

Utah Code Ann. § 78A-7-212

Place of holding court.

- (1) (a) County justice court judges may hold court in any municipality within the precinct but may exercise only the jurisdiction provided by law for county justice courts.
- (b) County justice court judges may also, at the direction of the county legislative body, hold court anywhere in the county as needed but may only hear cases arising within the precinct.
- (2) A municipal justice court judge shall hold court in the municipality where the court is located and, as directed by the municipal governing body, at the county jail or municipal prison.

Utah Code Ann. § 78A-7-213

Trial facilities -- Hours of business.

- (1) A justice court judge shall conduct all official court business in a courtroom or office located in a public facility which is conducive and appropriate to the administration of justice.
- (2) (a) A county justice court may, at the direction of the county legislative body, hold justice court anywhere in the county as needed, but may only hear cases arising within its precinct.
- (b) A municipal justice court judge shall hold court in the municipality where the court is located.
- (c) Justice courts may also hold court or conduct hearings or court business in any facility or location authorized by rule of the Judicial Council.
- (3) Justice courts shall be open and judicial business shall be transacted:
 - (a) five days per week; or
 - (b) no less than four days per week for at least 11 hours per day.
- (4) The legislative body of the county, city, or town shall establish operating hours for the justice courts within the requirements of Subsection (3) and the code of judicial administration.
- (5) The hours the courts are open shall be posted conspicuously at the courts and in local public buildings.
- (6) The clerk of the court and judges of justice courts shall attend the court at regularly scheduled times.
- (7) By July 1, 2011, all justice courts shall use a common case management system and disposition reporting system as specified by the Judicial Council.

Utah Code Ann. § 78A-7-215

Monthly reports to court administrator and governing body.

- (1) Every justice court shall file monthly with the state court administrator a report of the judicial business of the judge. The report shall be on forms supplied by the state court administrator.
- (2) The report shall state the number of criminal and small claims actions filed, the dispositions entered, and other information as specified in the forms.
- (3) A copy of the report shall be furnished by the justice court to the person or office in the county, city, or town designated by the governing body to receive the report.

Utah Code Ann. § 78A-8-102

Small claims -- Defined -- Counsel not necessary -- Removal from district court -- Deferring multiple claims of one plaintiff -- Supreme Court to govern procedures.

(1) A small claims action is a civil action:

(a) for the recovery of money where:

(i) the amount claimed does not exceed \$11,000 including attorney fees but exclusive of court costs and interest; and

(ii) the defendant resides or the action of indebtedness was incurred within the jurisdiction of the court in which the action is to be maintained; or

(b) involving interpleader under Rule 22 of the Utah Rules of Civil Procedure, in which the amount claimed does not exceed \$11,000 including attorney fees but exclusive of court costs and interest.

(2) (a) A defendant in an action filed in the district court that meets the requirement of Subsection (1)(a)(i) may remove, if agreed to by the plaintiff, the action to a small claims court within the same district by:

(i) giving notice, including the small claims filing number, to the district court of removal during the time afforded for a responsive pleading; and

(ii) paying the applicable small claims filing fee.

(b) A filing fee may not be charged to a plaintiff to appeal a judgment on an action removed under Subsection (2)(a) to the district court where the action was originally filed.

(3) The judgment in a small claims action may not exceed \$11,000 including attorney fees but exclusive of court costs and interest.

(4) A counter claim may be maintained in small claims actions if the counter claim arises out of the transaction or occurrence which is the subject matter of the plaintiff's claim. A counter claim may not be raised for the first time in the trial de novo of the small claims action.

(5) A claim involving property damage from a motor vehicle accident may be maintained in a small claims action, and any removal or appeal of the small claims action, without limiting the ability of a plaintiff to make a claim for bodily injury against the same defendant in a separate legal action. In the event that property damage claim is brought as a small claims action:

(a) a liability decision in an original small claims action or appeal of the original small claims action is not binding in a separate legal action for bodily injury; and

(b) an additional property damage claim can be brought in any separate legal action for bodily injury.

(6)(a) With or without counsel, persons or corporations may litigate actions on behalf of themselves:

(i) in person; or

(ii) through authorized employees.

(b) A person or corporation may be represented in an action by an individual who is not an employee of the person or corporation and is not licensed to practice law only in accordance with the Utah rules of small claims procedure as made by the Supreme Court.

(7) If a person or corporation other than a municipality or a political subdivision of the state files multiple small claims in any one court, the clerk or judge of the court may remove all but the initial claim from the court's calendar in order to dispose of all other small claims matters. Claims so removed shall be rescheduled as permitted by the court's calendar.

(8) Small claims matters shall be managed in accordance with simplified rules of procedure and evidence made by the Supreme Court.

Utah Code Ann. § 78A-8-103.

Assignee may not file claim.

A claim may not be filed or prosecuted in small claims court by any assignee of a claim.

Utah Code Ann. § 78A-8-104.

Object of small claims -- Attachment, garnishment, and execution.

(1) The hearing in a small claims action has the sole object of dispensing speedy justice between the parties. The record of small claims proceedings shall be as provided by rule of the Judicial Council.

(2) Attachment, garnishment, and execution may issue after judgment as prescribed by law, upon the payment of the fees required for those services.

Utah Code Ann. § 78A-8-105.

Civil filing fees.

(1) Except as provided in this section, the fees for a small claims action in justice court shall be the same as provided in Section 78A-2-301.

(2) Fees collected in small claims actions filed in municipal justice court are remitted to the municipal treasurer. Fees collected in small claims actions filed in a county justice court are remitted to the county treasurer.

(3) The fee in the justice court for filing a notice of appeal for trial de novo in a court of record is \$10. The fee covers all services of the justice court on appeal but does not satisfy the trial de novo filing fee in the court of record.

Utah Code Ann. § 78A-8-106.

Appeals -- Who may take and jurisdiction.

(1) Either party may appeal the judgment in a small claims action to the district court of the county by filing a notice of appeal in the original trial court within 28 days of entry of the judgment. If the judgment in a small claims action is entered by a judge or judge pro tempore of the district court, the notice of appeal shall be filed with the district court.

(2) The appeal is a trial de novo and shall be tried in accordance with the procedures of small claims actions. A record of the trial shall be maintained. The trial de novo may not be heard by a judge pro tempore appointed under Section 78A-8-108. The decision of the trial de novo may not be appealed unless the court rules on the constitutionality of a statute or ordinance.

Utah Code Ann. § 78A-8-107

Costs.

The prevailing party in any small claims action is entitled to costs of the action and also the costs of execution upon a judgment rendered therein.

Utah Code Ann. § 78A-8-108

Evening hours -- Judges pro tempore.

(1) The district or justice court may request that the Supreme Court appoint a member of the Utah State Bar in good standing, with the member's consent, as judge pro tempore to hear and determine small claims at times, including evening sessions, to be set by the court.

(2) After being duly sworn, judges pro tempore shall:

(a) serve voluntarily and without compensation at the request of the court; and

(b) be extended the same immunities, and have the same powers with respect to matters within the jurisdiction of the small claims court as exercised by a regular judge.

Utah Code Ann. § 78A-8-109

Report to Judiciary Interim Committee.

The Judicial Council shall present to the Judiciary Interim Committee, if requested by the committee, a report and recommendation concerning the maximum amount of small claims actions.

Utah Code Ann. § 78B-1-103

Jurors selected from random cross section -- Opportunity and obligation to serve.

(1) It is the policy of this state that:

(a) persons selected for jury service be selected at random from a fair cross section of the population of the county,

(b) all qualified citizens have the opportunity in accordance with this chapter to be considered for service; and

(c) all qualified citizens are qualified to serve when summoned, unless excused.

(2) A qualified citizen may not be excluded from jury service on account of race, color, religion, sex, national origin, age, occupation, disability or economic status.

Utah Code Ann. § 78B-1-104

Jury composition.

(1) A trial jury consists of:

(a) 12 persons in a capital case;

(b) eight persons in a noncapital first degree felony aggravated murder or other criminal case which carries a term of incarceration of more than one year as a possible sentence for the most serious offense charged;

- (c) six persons in a criminal case which carries a term of incarceration of more than six months but not more than one year as a possible sentence for the most serious offense charged;
 - (d) four persons in a criminal case which carries a term of incarceration of six months or less as a possible sentence for the most serious offense charged; and
 - (e) eight persons in a civil case at law except that the jury shall be four persons in a civil case for damages of less than \$20,000, exclusive of costs, interest, and attorney fees.
- (2) Except in the trial of a capital felony, the parties may stipulate upon the record to a jury of a lesser number than established by this section.
- (3) (a) The verdict in a criminal case shall be unanimous.
(b) The verdict in a civil case shall be by not less than three-fourths of the jurors.
- (4) There is no jury in the trial of small claims cases.
- (5) There is no jury in the adjudication of a minor charged with what would constitute a crime if committed by an adult.

Utah Code Ann. § 78B-1-105

Jurors -- Competency to serve -- Persons not competent to serve as jurors -- Court to determine disqualification.

- (1) A person is competent to serve as a juror if the person is:
- (a) a citizen of the United States;
 - (b) 18 years of age or older;
 - (c) a resident of the county; and
 - (d) able to read, speak, and understand the English language.
- (2) A person who has been convicted of a felony which has not been expunged is not competent to serve as a juror.
- (3) The court, on its own initiative or when requested by a prospective juror, shall determine whether the prospective juror is disqualified from jury service. The court shall base its decision on:
- (a) information provided on the juror qualification form;
 - (b) an interview with the prospective juror; or
 - (c) other competent evidence.
- (4) The clerk shall enter the court's determination in the records of the court.

Utah Code Ann. § 78B-1-106

Master jury list -- Inclusive -- Review -- Renewal -- Public examination.

- (1) The Judicial Council shall designate one or more regularly maintained lists of persons residing in each county as the source lists for the master jury list. The master jury list shall be as inclusive of the adult population of the county as is reasonably practicable.
- (2) The Judicial Council shall by rule provide for the biannual review of the master jury list to evaluate the master jury list's inclusiveness of the adult population.

(3) Not less than once every six months the Administrative Office of the Courts shall renew the master jury list by incorporating any additions, deletions, or amendments to the source lists. The Administrative Office of the Courts shall include any additional source lists designated by the Judicial Council upon the next renewal of the master jury list.

(4) The person having custody, possession, or control of any list used in compiling the master jury list shall make the list available to the Administrative Office of the Courts at all reasonable times without charge.

Utah Code Ann. § 78B-1-107

Master prospective jury list -- Juror qualification form -- Content.

(1) When a jury trial is anticipated, the jury clerk shall obtain from the master jury list the number of prospective jurors necessary to qualify jurors to empanel a jury in that case.

(2) Prospective jurors shall be randomly selected from the county in which the trial will be held. A prospective juror shall remain on the qualified jury list until there is no longer a need to empanel a jury in that case.

(3) The Judicial Council shall by rule govern the process for the qualification of jurors and the selection of qualified jurors for voir dire.

(4) The process shall gather the following from a prospective juror:

(a) confirmation of the prospective juror's name, address, email address, and daytime telephone number;

(b) information on whether the prospective juror is competent under statute to serve as a juror; and

(c) the prospective juror's declaration that the responses to requests for information are true to the best of the person's knowledge.

Utah Code Ann. § 78B-1-108

Qualified prospective jurors not exempt from jury service.

No qualified prospective juror is exempt from jury service.

Utah Code Ann. § 78B-1-109

Excuse from jury service -- Postponement.

(1) A court may excuse an individual from jury service:

(a) upon a showing:

(i) of undue hardship;

(ii) of public necessity;

(iii) that the individual is a mother who is breastfeeding a child: or

(iii) that the person is incapable of jury service; and

(b) for any period for which the grounds described in Subsection (1)(a) exist.

- (2) An individual described in Subsection (1) shall make the showing described in Subsection (1)(a) shown by affidavit, sworn testimony, or other competent evidence.
- (3) The court may postpone jury service upon a showing of good cause.

Utah Code Ann. § 78B-1-110

Limitations on jury service.

- (1) In any two-year period, a person may not:
 - (a) be required to serve on more than one grand jury;
 - (b) be required to serve as both a grand and trial juror;
 - (c) be required to attend court as a trial juror more than one court day, except if necessary to complete service in a particular case; or
 - (d) if summoned for jury service and the summons is complied with as directed, be selected for the prospective jury list more than once.
- (2) (a) Subsection (1)(d) does not apply to counties of the fourth, fifth, and sixth class and counties of the third class with populations up to 75,000.
 - (b) (i) All population figures used for this section shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.
 - (ii) If population estimates are not available from the United States Bureau of the Census, population figures shall be derived from the estimate of the Utah Population Committee.

Utah Code Ann. § 78B-1-111

Food allowance for jurors -- Sequestration costs.

- (1) Jurors may be provided with a reasonable food allowance under the rules of the Judicial Council.
- (2) When a jury has been placed in sequestration by order of the court, the necessary expenses for food and lodging shall be provided in accordance with the rules of the Judicial Council.

Utah Code Ann. § 78B-1-112

Jurors -- Preservation of records.

All records and papers compiled in connection with the selection and service of jurors shall be preserved by the clerk for four years, or for any longer period ordered by the court.

Utah Code Ann. § 78B-1-113

Jury not selected in conformity with chapter -- Procedure to challenge -- Relief available -- Exclusive remedy.

- (1) Within seven days after the moving party discovered, or by the exercise of diligence could have discovered the grounds therefore, and in any event before the trial jury is sworn to try the case, a party may move to stay the proceedings or to quash an indictment, or for other appropriate relief, on the ground of substantial failure to comply with this act in selecting a grand or trial jury.

(2) Upon motion filed under this section containing a sworn statement of acts which if true would constitute a substantial failure to comply with this act, the moving party may present testimony of the county clerk, the clerk of the court, any relevant records and papers not public or otherwise available used by the jury commission or the clerk, and any other relevant evidence. If the court determines that in selecting either a grand or a trial jury there has been a substantial failure to comply with this act and it appears that actual and substantial injustice and prejudice has resulted or will result to a party in consequence of the failure, the court shall stay the proceedings pending the selection of the jury in conformity with this act, quash an indictment, or grant other appropriate relief.

(3) The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the state, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this act.

Utah Code Ann. § 78B-1-114

Jury fee assessments -- Payment.

(1) The court has discretionary authority in any civil or criminal action or proceeding triable by jury to assess the entire cost of one day's juror fees against either the plaintiff or defendant or their counsel, or to divide the cost and assess them against both plaintiff and defendant or their counsel, or additional parties plaintiff or defendant, if:

(a) a jury demand has been made and is later withdrawn within the 48 hours preceding the commencement of the trial; or

(b) the case is settled or continued within 48 hours of trial without just cause for not having settled or continued the case prior to the 48-hour period.

(2) The party assessed shall make payment to the clerk of the court within a prescribed period. Payment shall be enforced by contempt proceedings.

(3) The court clerk shall transfer the assessment to the state treasury, or the auditor of the city or county incurring the juror expenses.

Utah Code Ann. § 78B-1-115

Jurors -- Penalties.

(1) A person who fails to respond timely to questions regarding qualification for jury service shall be in contempt of court and subject to penalties under Title 78B, Chapter 6, Part 3, Contempt.

(2) A person summoned for jury service who fails to appear or to complete jury service as directed shall be in contempt of court and subject to penalties under Title 78B, Chapter 6, Part 3, Contempt.

(3) Any person who willfully misrepresents a material fact regarding qualification for, excuse from, or postponement of jury service is guilty of an infraction.

Utah Code Ann. § 78B-1-116

Jurors -- Employer not to discharge or threaten employee for jury service -- Criminal penalty -- Civil action by employee.

- (1) An employer may not deprive an employee of employment, threaten or take any adverse employment action, or otherwise coerce the employee regarding employment because the employee receives a summons, responds to it, serves as a juror, or a grand juror, or attends court for prospective jury or grand jury service.
- (2) An employee may not be required or requested to use annual, vacation, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or for time spent actually serving on a jury. Nothing in this provision shall be construed to require an employer to provide annual, vacation, or sick leave to employees under the provisions of this statute who otherwise are not entitled to those benefits under company policies.
- (3) Any employer who violates this section is guilty of criminal contempt and upon conviction may be fined not more than \$500 or imprisoned not more than six months, or both.
- (4) If any employer discharges an employee in violation of this section, the employee within 30 days may bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable may not exceed lost wages for six weeks. If the employee prevails, the employee shall be allowed reasonable attorney fees fixed by the court.

Utah Code Ann. § 78B-1-117(3)

Jurors and Witnesses -- State payment for jurors and subpoenaed persons -- Appropriations and costs -- Expenses in justice court.

- (3) In the justice courts, the fees, mileage, and other expenses authorized by law for jurors, prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs shall be paid by the municipality if the action is prosecuted by the city attorney

Utah Code Ann. § 78B-1-119

Jurors and Witnesses -- Fees and mileage.

- (1) Every juror and witness legally required or in good faith requested to attend a trial court of record or not of record or a grand jury is entitled to:
 - (a) \$18.50 for the first day of attendance and \$49 per day for each subsequent day of attendance; and
 - (b) if traveling more than 50 miles, \$1 for each four miles in excess of 50 miles actually and necessarily traveled in going only, regardless of county lines.
- (2) Persons in the custody of a penal institution upon conviction of a criminal offense are not entitled to a witness fee.
- (3) A witness attending from outside the state in a civil case is allowed mileage at the rate of 25 cents per mile and is taxed for the distance actually and necessarily traveled inside the state in going only.

(4) If the witness is attending from outside the state in a criminal case, the state shall reimburse the witness under Section 77-21-3.

(5) A prosecution witness or a witness subpoenaed by an indigent defendant attending from outside the county but within the state may receive reimbursement for necessary lodging and meal expenses under rule of the Judicial Council.

(6) A witness subpoenaed to testify in court proceedings in a civil action shall receive reimbursement for necessary and reasonable parking expenses from the attorney issuing the subpoena under rule of the Judicial Council or Supreme Court.

Utah Code Ann. § 78B-1-120

Jurors and witnesses -- Fees in criminal cases -- Daily report of attendance.

Every witness in a criminal case subpoenaed for the state, or for a defendant by order of the court at the expense of the state, and every juror, whether grand or trial, shall, unless temporarily excused, in person report daily to the clerk. No per diem shall be allowed for any day upon which attendance is not so reported.

Utah Code Ann. § 78B-1-122

Jurors and witnesses -- Justice court judge -- Certificate of attendance -- Records and reporting.

Every justice court judge shall follow the established disbursement process for juror and witness fees within the town, city, or county, or use the following procedure:

(1) A justice court judge shall provide to each person who has served as a juror or as a witness in a criminal case when summoned for the prosecution by the county or city attorney, or for the defense by order of the court, a numbered certificate that contains:

- (a) the name of the juror or witness;
- (b) the title of the proceeding;
- (c) the number of days in attendance;
- (d) the number of miles traveled if the witness has traveled more than 50 miles in going only; and
- (e) the amount due.

(2) The certificate shall be presented to the county or city attorney. When certified as being correct, it shall be presented to the county or city auditor and when allowed by the county executive or town council, the auditor shall draw a warrant for it on the treasurer.

(3) Every justice court judge shall keep a record of all certificates issued. The record shall show all of the facts stated in each certificate. On the first Monday of each month a detailed statement of all certificates issued shall be filed with the treasurer.

Utah Code Ann. § 78B-1-125

Jurors and witnesses -- Certifying excessive fees a felony.

Any clerk or judge of any court, county attorney, district attorney, or other officer who certifies false information as a fact, whereby any witness or juror shall be allowed a greater sum than otherwise entitled to under the provisions of this title, is guilty of a felony.

Utah Code Ann. § 78B-1-127

Witnesses -- Competency.

Every person is competent to be a witness except as otherwise provided in the Utah Rules of Evidence.

Utah Code Ann. § 78B-1-128

Who may be witnesses -- Jury to judge credibility.

(1) All persons, without exception, otherwise than as specified in this part, who, having organs of sense, can perceive, and, perceiving, can make known their perceptions to others, may be witnesses.

(2) Neither parties nor other persons who have an interest in the event of an action or proceeding are excluded; nor those who have been convicted of crime; nor persons on account of their opinions on matters of religious belief.

(3) The credibility of a witness may be questioned by:

(a) the manner in which the witness testifies;

(b) the character of the witness testimony;

(c) evidence affecting the witness' character for truth, honesty, or integrity;

(d) the witness' motives; or

(e) contradictory evidence.

(4) The jury is the exclusive judge of credibility.

Utah Code Ann. § 78B-1-129

Witnesses -- Subpoena defined.

The process by which the attendance of a witness is required is a subpoena. It is a writ or order directed to a person and requiring the person's attendance at a particular time and place to testify as a witness. The person may also be required to bring any books, documents, or other things under the person's control which is required to be produced in evidence.

Utah Code Ann. § 78B-1-130

Witnesses -- Duty when served with subpoena.

A witness served with a subpoena shall:

(1) attend at the time appointed with any papers required by the subpoena;

(2) answer all pertinent and legal questions; and

(3) unless sooner discharged, remain until the testimony is closed.

Utah Code Ann. § 78B-1-131

Witnesses -- Liability to forfeiture and damages.

A witness who disobeys a subpoena shall, in addition to any penalty imposed for contempt, be liable to the party aggrieved in the sum of \$100, and all damages sustained by the failure of the witness to attend. Forfeiture and damages may be recovered in a civil action.

Utah Code Ann. § 78B-1-133

Witnesses -- Judge or juror may be witness -- Procedure.

The judge or any juror may be called as a witness by either party. It is in the discretion of the court to order the trial to be postponed, suspended, or take place before another judge or jury.

Utah Code Ann. § 78B-1-134

Witnesses -- Duty to Answer Questions -- Privilege.

- (1) A witness shall answer all questions legal and pertinent to the matter in issue, although an answer may establish a claim against the witness.
- (2) A witness need not give an answer which will subject him to punishment for a felony.
- (3) A witness need not give an answer which will degrade his character, unless it is to the very fact in issue or to a fact from which the fact in issue would be presumed.
- (4) A witness must answer as to the fact of any previous conviction of a felony.

Utah Code Ann. § 78B-1-135

Witnesses -- Proceedings in aid of or supplemental to attachment, garnishment, or execution.

- (1) Notwithstanding the provisions of Section 78B-1-134, a party or a witness examined in proceedings in aid of or supplemental to attachment, garnishment, or execution is not excused from answering a question on the ground that;
 - (a) the answer will tend to convict the party or witness of the commission of a fraud;
 - (b) the answer will prove the party or witness has been a party or privy to, or has knowledge of, a conveyance, assignment, transfer or other disposition of property conveyed for any purpose;
 - (c) the party, witness, or any other person claims to be entitled, as against the judgment creditor or a receiver appointed or to be appointed in the proceedings, to hold property derived from or through the judgment debtor or to be discharged from the payment of a debt which was due to the judgment debtor or to a person in the debtor's behalf.
- (2) An answer cannot be used as evidence against the person so answering in a criminal action or proceeding, except in an action for perjury against the person for falsely testifying.

Utah Code Ann. § 78B-1-136

Witnesses -- Rights.

It is the right of a witness to be protected from irrelevant, improper or insulting questions, and from harsh or insulting demeanor, to be detained only so long as the interests of justice require it, and to be examined only as to matters legal and pertinent to the issue.

Utah Code Ann. § 78B-1-137

Witnesses – Privileged communications.

There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate. Therefore, a person cannot be examined as a witness in the following cases:

(1) (a) Neither a wife nor a husband may either during the marriage or afterwards be, without the consent of the other, examined as to any communication made by one to the other during the marriage.

(b) This exception does not apply:

(i) to a civil action or proceeding by one spouse against the other;

(ii) to a criminal action or proceeding for a crime committed by one spouse against the other;

(iii) to the crime of deserting or neglecting to support a spouse or child;

(iv) to any civil or criminal proceeding for abuse or neglect committed against the child of either spouse; or

(v) if otherwise specifically provided by law.

(2) An attorney cannot, without the consent of the client, be examined as to any communication made by the client to the attorney or any advice given regarding the communication in the course of the professional employment. An attorney's secretary, stenographer, or clerk cannot be examined, without the consent of the attorney, concerning any fact, the knowledge of which has been acquired as an employee.

(3) A member of the clergy or priest cannot, without the consent of the person making the confession, be examined as to any confession made to either of them in their professional character in the course of discipline enjoined by the church to which they belong.

(4) A physician, surgeon, or physician assistant cannot, without the consent of the patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable the physician, surgeon, or physician assistant to prescribe or act for the patient. However, this privilege shall be waived by the patient in an action in which the patient places the patient's medical condition at issue as an element or factor of the claim or defense. Under those circumstances, a physician, surgeon, or physician assistant who has prescribed for or treated that patient for the medical condition at issue may provide information, interviews, reports, records, statements, memoranda, or other data relating to the patient's medical condition and treatment which are placed at issue.

(5) A public officer cannot be examined as to communications made in official confidence when the public interests would suffer by the disclosure.

(6) (a) A sexual assault counselor as defined in Section 77-38-203 cannot, without the consent of the victim, be examined in a civil or criminal proceeding as to a confidential communication as defined in Section 77-38-203 made by the victim.

(b) A victim advocate as defined in Section 77-3-403 may not, without the written consent of the victim, or the victim's guardian or conservator if the guardian or conservator is not the accused, be examined in a civil or criminal proceeding as to a confidential communication, as defined in Section 77-38-403, unless the victim advocate is a criminal justice system victim advocate, as

defined in Section 77-38-403 and is examined in camera by a court to determine whether the confidential communication is privileged.

Utah Code Ann. § 78B-1-138

Witnesses -- Exempt from arrest in civil action.

Every person who has been in good faith served with a subpoena to attend as a witness before a court, judge, commissioner, referee or other person, in a case where the disobedience of the witness may be punished as a contempt, is exempt from arrest in a civil action while going to the place of attendance, necessarily remaining there and returning therefrom.

Utah Code Ann. § 78B-1-139

Witnesses – Unlawful arrest – Void – Damages recoverable.

The arrest of a witness contrary to Section 78B-1-138 is void, and when willfully made is a contempt of the court. The person making the arrest is responsible to the witness arrested for double the amount of the damages which may be assessed against the witness, and is also liable to an action at the suit of the party serving the witness with the subpoena for the damages sustained by the party in consequence of the arrest.

Utah Code Ann. § 78B-1-140

Liability of officer making arrest.

(1) An officer is not liable for making the arrest in ignorance of the facts creating the exemption, but is liable for any subsequent detention of the witness, if the witness claims the exemption and makes an affidavit stating:

- (a) he has been served with a subpoena to attend as a witness before a court, officer or other person, specifying the same, the place of attendance and the action or proceeding in which the subpoena was issued;
- (b) he has not been served by his own procurement, with the intention of avoiding an arrest; and
- (c) he is at the time going to the place of attendance, returning therefrom, or remaining there in obedience to the subpoena.

(2) The affidavit may be taken by the officer, and exonerates him from liability for discharging the witness when arrested.

Utah Code Ann. § 78B-1-141

Witnesses – Discharge when unlawfully arrested.

The court or officer issuing the subpoena, and the court or officer before whom the attendance is required, may discharge the witness from an arrest made in violation of Section 78B-1-138. If the court has adjourned before the arrest or before application for the discharge, a judge of the court may grant the discharge.

Utah Code Ann. § 78B-1-142

Witnesses -- Oaths -- Who may administer.

Every court, every judge, clerk and deputy clerk of any court, every justice, every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has the power to administer oaths or affirmations.

Utah Code Ann. § 78B-1-143

Witnesses -- Form of oath.

- (1) An oath or affirmation in an action or proceeding may be administered in the following form: You do solemnly swear (or affirm) that the evidence you shall give in this issue (or matter) pending between ___ and ___ shall be the truth, the whole truth and nothing but the truth, so help you God (or, under the pains and penalties of perjury).
- (2) The person swearing or affirming shall express assent when addressed.

Utah Code Ann. § 78B-1-144

Witnesses -- Affirmation or declaration instead of oath allowed.

Any person may, instead of taking an oath, opt to make a solemn affirmation or declaration, by assenting, when addressed in the following form:

"You do solemnly affirm (or declare) that . . ." etc., as in Section 78B-1-143.

Utah Code Ann. § 78B-1-145

Witnesses -- Variance in form of swearing to suit beliefs.

- (1) Whenever the court before which a person is offered as a witness is satisfied that the person has a peculiar mode of swearing, connected with or in addition to the usual form, which in the person's opinion is more solemn or obligatory, the court may in its discretion adopt that mode.
- (2) A person who believes in a religion other than the Christian religion may be sworn according to the particular ceremonies of the person's religion, if there are any.

Utah Code Ann. § 78B-1-146

Witnesses -- Interpreters -- Subpoena -- Contempt -- Costs.

- (1) When a witness does not understand and speak the English language, an interpreter shall be sworn in to interpret. Any person may be subpoenaed by any court or judge to appear before the court or judge to act as an interpreter in any action or proceeding. Any person so subpoenaed who fails to attend at the time and place named is guilty of a contempt.
- (2) The Judicial Council may establish a fee for the issuance and renewal of a license of a certified court interpreter. Any fee established under this section shall be deposited as a dedicated credit to the Judicial Council.
- (3) If the court appoints an interpreter, the court may assess all or part of the fees and costs of the interpreter against the person for whom the service is provided. The court may not assess interpreter fees or costs against a person found to be impecunious.

Utah Code Ann. § 78B-1-147

Witnesses – Fees in civil cases – How paid – Taxed as costs.

(1) The fees and compensation of witnesses in all civil causes shall be paid by the party who causes the witnesses to attend. A person is not obliged to attend court in a civil cause when subpoenaed unless the person's:

- (a) fees for one day's attendance are tendered or paid on demand; or
- (b) fees for attendance for each day are tendered or paid on demand.

(2) The fees of witnesses paid in civil causes may be taxed as costs against the losing party.

Utah Code Ann. § 78B-1-148

Witnesses -- Only one fee per day allowed.

No witness shall receive fees in more than one criminal cause on the same day.

Utah Code Ann. § 78B-1-149

Witnesses -- Officials subpoenaed not entitled to fee or per diem -- Exception.

No officer of the United States, or the state, or of any county, incorporated city or town within the state, may receive any witness fee or per diem when testifying in a criminal proceeding unless the officer is required to testify at a time other than during normal working hours.

Utah Code Ann. § 78B-1-150

Witnesses -- When criminal defense witness may be called at expense of state.

A witness for a defendant in a criminal cause may not be subpoenaed at the expense of the state, county, or city, except upon order of the court. The order shall be made only upon affidavit of the defendant, showing:

- (1) the defendant is impecunious and unable to pay the per diems of the witness;
- (2) the evidence of the witness is material for defendant's defense as advised by counsel, if counsel is in place; and
- (3) the defendant cannot safely proceed to trial without the witness.

Utah Code Ann. § 78B-1-201

Definitions.

As used in this part:

- (1) "Appointing authority" means the presiding officer or similar official of any court, board, commission, authority, department, agency, legislative body, or of any proceeding of any nature where a qualified interpreter is required under this part.
- (2) "Deaf or hard of hearing person" and "deaf or hard of hearing parent" means a deaf or hard of hearing person who, because of sensory or environmental conditions, requires the assistance of a qualified interpreter or other special assistance for communicative purposes.
- (3) "Necessary steps" or "necessary services" include provisions of qualified interpreters, lip reading, pen and paper, typewriters, closed-circuit television with closed-caption translations,

computers with print-out capability, and telecommunications devices for the deaf or similar devices.

(4) "Qualified interpreter" means a sign language or oral interpreter as provided in Sections 78B-1-203 and 78B-1-206 of this part.

Utah Code Ann. § 78B-1-202

Proceedings at which interpreter is to be provided for deaf or hard of hearing.

(1) If a deaf or hard of hearing person is a party or witness at any stage of any judicial or quasi-judicial proceeding in this state or in its political subdivisions, including civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a deaf or hard of hearing person may be subjected to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings to the deaf or hard of hearing person and to interpret the deaf or hard of hearing person's testimony. If the deaf or hard of hearing person does not understand sign language, the appointing authority shall take necessary steps to ensure that the deaf or hard of hearing person may effectively and accurately communicate in the proceeding.

(2) If a juvenile whose parent or parents are deaf or hard of hearing is brought before a court for any reason whatsoever, the court shall appoint and pay for a qualified interpreter to interpret the proceedings to the deaf or hard of hearing parent and to interpret the deaf or hard of hearing parent's testimony. If the deaf or hard of hearing parent or parents do not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that the deaf or hard of hearing person may effectively and accurately communicate in the proceeding.

(3) In any hearing, proceeding, or other program or activity of any department, board, licensing authority, commission, or administrative agency of the state or of its political subdivisions, the appointing authority shall appoint and pay for a qualified interpreter for the deaf or hard of hearing participants if the interpreter is not otherwise compensated for those services. If the deaf or hard of hearing participants do not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that deaf or hard of hearing persons may effectively and accurately communicate in the proceeding.

(4) If a deaf or hard of hearing person is a witness before any legislative committee or subcommittee, or legislative research or interim committee or subcommittee or commission authorized by the state Legislature or by the legislative body of any political subdivision of the state, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings to the deaf or hard of hearing person and to interpret the deaf or hard of hearing person's testimony. If the deaf or hard of hearing witness does not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that deaf or hard of hearing witness may effectively and accurately communicate in the proceeding.

(5) If it is the policy and practice of a court of this state or of its political subdivisions to appoint counsel for indigent people, the appointing authority shall appoint and pay for a qualified

interpreter or other necessary services for deaf or hard of hearing, indigent people to assist in communication with counsel in all phases of the preparation and presentation of the case.
(6) If a deaf or hard of hearing person is involved in administrative, legislative, or judicial proceedings, the appointing authority shall recognize that family relationship between the particular deaf or hard of hearing person and an interpreter may constitute a possible conflict of interest and select a qualified interpreter who will be impartial in the proceedings.

Utah Code Ann. § 78B-1-203

Effectiveness of interpreter determined.

(1) Before appointing an interpreter, the appointing authority shall make a preliminary determination, on the basis of the proficiency level established by the Utah State Office of Rehabilitation and on the basis of the deaf or hard of hearing person's testimony, that the interpreter is able to accurately communicate with and translate information to and from the hearing-impaired person involved.

(2) If the interpreter is not able to provide effective communication with the deaf or hard of hearing person, the appointing authority shall appoint another qualified interpreter.

Utah Code Ann. § 78B-1-204

Appointment of more qualified interpreter.

If a qualified interpreter is unable to render a satisfactory interpretation, the appointing authority shall appoint a more qualified interpreter.

Utah Code Ann. § 78B-1-205

Readiness of interpreter prerequisite to commencement of proceeding.

If an interpreter is required to be appointed under this part, the appointing authority may not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure effective communication with the deaf or hard of hearing participants.

Utah Code Ann. § 78B-1-206

List of qualified interpreters -- Use -- Appointment of another.

(1) The Utah State Office of Rehabilitation created in Section 35A-1-202 shall establish, maintain, update, and distribute a list of qualified interpreters.

(2) (a) When an interpreter is required under this part, the appointing authority shall use one of the interpreters on the list provided by the Utah State Office of Rehabilitation.

(b) If none of the listed interpreters are available or are able to provide effective interpreting with the particular deaf or hard of hearing person, then the appointing authority shall appoint another qualified interpreter who is able to accurately and simultaneously communicate with and translate information to and from the particular deaf or hard of hearing person involved.

Utah Code Ann. § 78B-1-207

Oath of interpreter.

Before he or she begins to interpret, every interpreter appointed under this part shall take an oath that he or she will make a true interpretation in an understandable manner to the best of his or her skills and judgment.

Utah Code Ann. § 78B-1-208

Compensation of interpreter.

- (1) An interpreter appointed under this part is entitled to a reasonable fee for his or her services, including waiting time and reimbursement for necessary travel and subsistence expenses.
- (2) The fee shall be based on a fee schedule for interpreters recommended by the State Office of Rehabilitation created in Section 35A-1-202 or on prevailing market rates.
- (3) Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for state employees generally.
- (4) Compensation for interpreter services shall be paid by the appointing authority if the interpreter is not otherwise compensated for those services.

Utah Code Ann. § 78B-1-209

Waiver of right to interpreter.

The right of a deaf or hard of hearing person to an interpreter may not be waived, except by a deaf or hard of hearing person who requests a waiver in writing. The waiver is subject to the approval of counsel to the deaf or hard of hearing person, if existent, and is subject to the approval of the appointing authority. In no event may the failure of the deaf or hard of hearing person to request an interpreter be considered a waiver of that right.

Utah Code Ann. § 78B-1-210

Privileged communications.

If a deaf or hard of hearing person communicates through an interpreter to any person under such circumstances that the communication would be privileged and the person could not be compelled to testify as to the communications, this privilege shall apply to the interpreter as well.

Utah Code Ann. § 78B-1-211

Video recording of testimony of deaf or hard of hearing person.

The appointing authority, on his or her own motion or on the motion of a party to the proceedings, may order that the testimony of the deaf or hard of hearing person and its interpretation be electronically recorded by a video recording device for use in verification of the official transcript of the proceedings.

In addition to the statutory requirements cited above, which cannot be waived, the Judicial Council has adopted Rules of Judicial Administration governing the operation of justice courts.

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Rule 9-102, Rule 9-103, Rule 9-104, Rule 9-105, Rule 9-106, Rule 9-107, Rule 9-301, and Appendix B, Justice Court Standards For Recertification, are some, but not all of the rules that affect the operation of the Justice Courts and are attached hereto as Exhibit A and incorporated herein by reference.

Based on our review of the aforementioned documents and relevant statutes, we are of the opinion that the continued operation of the Santaquin Justice Court is feasible and is beneficial to the City of Santaquin and its residents. However, this opinion does not address whether, or to what extent, the financial costs associated with the operation of the Santaquin Justice Court are covered by fines, costs or fees received by the Court. We have regularly suggested that the Santaquin City Council include a financial analysis as one factor for its consideration in determining the feasibility of the continued operation of the Santaquin Justice Court.

This opinion is strictly limited to those specific items mentioned here and above, and no opinion is expressed as to any other matter or matters irrespective of how closely they may be related to any matter mentioned herein. This opinion is solely for the use of the City of Santaquin with regard to the recertification of the Santaquin Justice Court and not with regard to any other matter or transaction, and the opinions expressed herein are only valid as of the date of this opinion.

The effective date of this opinion is October 16, 2019.

Very truly yours,

NIELSEN & SENIOR



Brett B. Rich

Mayor Kirk Hunsaker
Santaquin City
October 8, 2019
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EXHIBIT A

Rule 9-102. Caseload report requirements.

Intent:

To establish the caseload reporting requirements for Justice Courts.

Applicability:

This rule shall apply to all Justice Courts.

Statement of the Rule:

- (1) Every Justice Court judge shall direct the clerk to prepare a Monthly Report of Court Caseload or complete the form personally if there is no court clerk.
- (2) This report shall be submitted by the tenth day of the month following the report period.
- (3) A separate form shall be prepared for each court in which a judge sits.
- (4) If the court has had no cases to report during the preceding month, a form shall be submitted to document that no cases were filed or disposed of during the month.

Rule 9-103. Certification of educational requirements.

Intent:

To establish the process for measuring compliance with the certification requirements of Utah statutes.

Applicability:

This rule shall apply to all Justice Court judges.

Statement of the Rule:

(1) Notification shall be sent to each Justice Court judge of the date and place of the annual Justice Court Conference.

(2) Each Justice Court judge shall enter his or her name on a roll to be kept at the annual Justice Court Conference.

(3) No later than February 1, the Justice Court Administrator shall report to the Judicial Conduct Commission the names of Justice Court judges who have failed during the previous calendar year:

(3)(A) to attend or be excused from a mandatory conference; or

(3)(B) to obtain 30 hours of judicial education.

Rule 9-104. Salary recommendations.

Intent:

To establish the process for determining recommended salary levels for Justice Court judges.

Applicability:

This rule shall apply to the Board of Justice Court Judges and the Administrative Office of the Courts.

Statement of the Rule:

(1) The Personnel Manager for the courts shall develop a salary plan for Justice Court judges. A weighted caseload formula, which has been reviewed and approved by the Board, shall serve as a basis for determining relative pay ranges.

(2) A revision of the recommended salary scale shall be done whenever the compensation of district court judges has been increased by the legislature. The scale shall then be sent to the local governmental unit responsible for setting the salary of the judge.

(3) Upon request of a Justice Court judge, a reevaluation of the salary recommendation may be made, based upon a change in his or her workload. No recommendation shall be made, however, which reduces the judge's salary during a term of office.

Rule 9-105. Justice Court hours.**Intent:**

To establish minimum court hours for Justice Courts.

Applicability:

This rule shall apply to all Justice Courts.

Statement of the Rule:

(1) Every Justice Court shall establish a regular schedule of court hours to be posted in a conspicuous location at the court site.

(2) Justice Courts shall be open and available to transact judicial business every business day, Monday through Friday, excluding holidays as defined in Utah Code section 63G-1-301, and unless specifically waived by the Judicial Council. During the scheduled hours of court operation the Justice Court judge or clerk shall be physically present or immediately available remotely.

(3) Justice Courts shall provide, at a minimum, the following hours of operation:

Number of Average Monthly Filings	Hours Per Day
0-60	1
61-150	2
151-200	3
201-300	4
301-400	5
401-500	6
501 or more	8

(4) The Justice Court judge may schedule the court hours to meet the needs of the litigants and the availability of bailiff and clerk services.

(5) Court hours shall be set at least quarterly and the Justice Court judge shall annually send notice to the Administrative Office of the Courts of the hours which have been set for court operation.

Effective May 1, 2016

Rule 9-106. New judge certification procedure.

Intent:

To establish the orientation and testing procedure to be followed in determining certification of proposed justice court judges.

Applicability:

This rule shall apply to all newly appointed justice court judges who are not already certified judges in other justice courts in Utah. This rule shall not apply to active senior justice court judges.

Statement of the Rule:

- (1) The Council shall schedule three orientations each year. Upon receipt of written notification of the name of a proposed judge, both the proposed judge and the appointing authority shall be notified in writing of the date of the next orientation, and such notification shall include a copy of this rule.
- (2) At least 10 days prior to the orientation, the proposed judge shall be sent a copy of the current Manual for Justice Court Judges.
- (3) Prior to the orientation, the appointing authority shall assure, and shall notify the Council, that the proposed judge meets the statutory qualifications for office.
- (4) The orientation shall cover substantive and procedural issues pertinent to justice courts as outlined in the Manual for Justice Court Judges.
- (5) Upon completion of the orientation session, an examination shall be administered. In order to be certified, each proposed judge must attend all parts of the orientation and must answer at least 80% of the examination questions correctly.
- (6) If a proposed judge fails to answer 80% of the questions correctly, that proposed judge shall have the opportunity to take another examination not sooner than 15 days after the orientation. The second examination shall be preceded by a substantive review of the first examination and an opportunity for additional instruction.
- (7) A proposed judge who fails to answer 80% of the questions on the second examination correctly must wait until the next scheduled full orientation in order to be retested. The appointing authority shall be notified of the status of the proposed judge, and the provisions of paragraphs (5) and (6) above shall once again apply.
- (8) Upon completion of the orientation process, the Justice Court Administrator shall make a recommendation to the Council respecting certification. The Council shall either certify that the proposed judge has attended the orientation and successfully passed the examination, or decline to certify the same. The Council shall notify the proposed judge and the appointing authority of its decision in writing.

(9) The Council may waive any of the non-statutory requirements above for good cause shown.

Rule 9-107. Justice court technology, security, and training account.

Intent:

To establish the process for allocation of funds from the Justice Court Technology, Security, and Training restricted account.

Applicability:

This rule shall apply to all applications for and allocations from the account.

Statement of the Rule:

- (1) Any governmental entity that operates or has applied to operate a justice court may apply for funds from the account for qualifying projects. Local governmental entities may only use the funds for one-time purposes, and preference will be given to applications that propose to use the funds for new initiatives rather than for supplanting existing efforts.
- (2) The Board of Justice Court Judges, through the Administrative Office of the Courts, may apply for funds from the account for qualifying projects.
- (3) The Administrative Office of the Courts may apply for funds from the account for qualifying projects, and may use the funds for ongoing support of those projects.
- (4) Qualifying projects are those that meet the statutory requirements for the use of the account funds.
- (5) Funds will be distributed on or about July 1 of each year in which funds are available, and applications for those funds must be made by April 15 of the same year on forms available from the Administrative Office of the Courts. All applications for funds shall be first reviewed and prioritized by the Board of Justice Court Judges, and that recommendation, along with all timely applications shall then be forwarded to the Management Committee of the Judicial Council. The Management Committee will then make the final awards.
- (6) An entity receiving funds shall file with the Board of Justice Court Judges an accounting, including proof of acquisition of the goods or services for which the award was granted. The accounting shall be filed no later than July 15 for activity during the previous fiscal year.

Appendix B. Justice Court Standards For Recertification

Instructions to applicant for recertification

As part of the application process, each entity should carefully review all requirements for the operation of Justice Courts. In order to aid governing bodies in obtaining the necessary information regarding the continuing obligations of an entity with respect to the operations of the Court, the governing body of each entity must request a written opinion from its attorney advising the entity of all requirements for the operation of a Justice Court, and the feasibility of maintaining a Justice Court. In addition, prior to submission of this application, each entity must duly pass a resolution requesting recertification. The resolution must also affirm that the entity is willing to meet all requirements for the operation of the Court during the period of certification. A copy of the attorney's opinion and the resolution must accompany the application. A representative of the entity may appear before the Committee to present the application and may present any additional information which the applicant desires to present to the Committee. In the event that additional information is deemed necessary, the Committee may request such additional information from the applicant. Certification will certify the court to process all cases which come within the jurisdiction of the court including criminal, civil and small claims cases pursuant to Section 78A-7-106.

Statutes of the State of Utah require that certain standards be met in the operation of a Justice Court. These statutory requirements include:

1. All official court business shall be conducted in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice (Section 78A-7-213).
2. Each court shall be opened and judicial business shall be transacted every day as provided by law (Section 78A-7-213), although the judge is not required to be present during all hours that the court is open.
3. The hours that the court will be open shall be posted conspicuously at the court and in local public buildings (Section 78A-7-213).
4. The judge and the clerk of the court shall attend the court at regularly scheduled times (Section 78A-7-213).
5. The entity creating the Justice Court shall provide and compensate a judge and clerical personnel to conduct the business of the court (Section 78A-7-206 and Section 78A-7-211).
6. The entity creating a Justice Court shall assume the expenses of travel, meals, and lodging for the judge of that court to attend required judicial education and training (Section 78A-7-205).
7. The entity creating a Justice Court shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (Section 78A-7-211).
8. The entity creating the Justice Court shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution (Section 78A-7-209).
9. The entity creating the court shall provide adequate funding for attorneys where persons are indigent as provided by law (Section 78A-7-209).

10. The entity creating the court shall provide sufficient local law enforcement officers to attend court when required and provide security for the court (Section 78A-7-209).

11. Witnesses and jury fees as required by law shall be paid by the entity which creates the Court.

12. Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (Section 78A-7-121 and Section 78A-7-119).

13. Every entity creating a court shall pay the judge of that court a fixed compensation (Section 78A-7-206).

14. Court shall be held within the jurisdiction of the court, except as provided by law (Section 78A-7-212).

15. The entity creating the court shall provide and keep current for the court a copy of the Motor Vehicle Laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances, and other necessary legal reference material (Section 78A-7-214).

16. All required reports and audits shall be filed as required by law or by rule of the Judicial Council pursuant to Section 78A-7-215.

17. An audio recording system shall maintain the verbatim record of all court proceedings. Section 78A-7-103. For Class I and Class II justice courts, the system must:

- (a) be a stand-alone unit that records and audibly plays back the recording;
- (b) index, back-up and archive the recording and enable the record to be retrieved.
- (c) have at least four recording channels;
- (d) have a one-step "on" and "off" recording function;
- (e) have conference monitoring of recorded audio;
- (f) have external record archiving from the unit with local access;
- (g) be capable of being integrated with the courts public address system; and

For Class III and Class IV justice courts, the system must, at a minimum:

- (h) be a stand-alone unit that records and audibly plays back the recording;
- (i) index, back-up and archive the recording and enable the record to be retrieved; and
- (j) have at least two recording channels.

The Board of Justice Court Judges may create a list of products that meet these criteria.

In addition to those requirements which are directly imposed by statute, Section 78A-7-103 directs the Judicial Council to promulgate minimum requirements for the creation and certification of Justice Courts. Pursuant to statute, the Judicial Council has adopted the following minimum requirements:

1. That the Court be opened for at least one hour each day that the court is required to be open as provided by law (Section 78A-7-213).

2. That the judge be available to attend court and conduct court business as needed.

3. That the minimum furnishings for a courtroom include: a desk and chair for the judge (on a six inch riser), a desk and chair for the court clerk, chairs for witnesses, separate

tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public. (A suggested courtroom configuration is attached).

4. A judicial robe, a gavel, current bail schedules, a copy of the Code of Judicial Administration, and necessary forms and supplies.

5. Office space for the judge and clerk (under certain circumstances this space may be shared, but if shared, the judge and clerk must have priority to use the space whenever needed). The office space shall include a desk for the judge and a desk for the clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct court business, a cash register or secured cash box, a typewriter or word processor, and access to a copy machine.

6. A clerk must be present during the time the court is open each day and during court sessions, as required by the judge.

7. The entity must have at least one peace officer (which may be contracted).

8. A court security plan must be submitted consistent with C.J.A. Rule 3-414.

9. Each court must have at least one computer with access to the internet, and appropriate software and security/encryption technology to allow for electronic reporting and access to Driver License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety.

10. Each court shall report required case disposition information to DLD, BCI and the Administrative Office of the Courts electronically, as described in number 9 above.

In establishing minimum requirements, the Judicial Council has determined that Justice Courts with higher case filings require greater support services. To accommodate the great differences in judicial activity between Justice Courts within the state, the Council has divided courts into four classes based upon the average monthly cases filed in that court. Minimum standards have been set for each classification. Courts which have an average of less than 61 cases filed each month are classified as Class IV Courts. The minimum requirements for a Class IV Court are stated above. (These requirements are also attached as Class IV minimum requirements). These requirements include both the statutory requirements and requirements promulgated by the Judicial Council, and are sometimes hereinafter referred to as "base requirements."

Courts which have an average of more than 60 but less than 201 cases filed each month are classified as Class III Courts. In addition to the base requirements, a Class III Court must be open more hours each week (see attached Class III minimum requirements), and court must be scheduled at least every other week. Courts which have an average of more than 200 but less than 501 cases filed each month are classified as Class II Courts. In addition to the base requirements, Class II Courts are required to be open additional hours (see attached Class II minimum requirements), the courtroom configuration is required to be permanent (although the courtroom may be used by another entity when the court is not in session), court must be scheduled at least weekly, the judge must be provided an appropriate office (chambers) for his own use, clerical space may not be shared, at least one full-time clerk must be provided (see attached Class II minimum requirements), and the courtroom, judge's chamber and clerk's office must be in the same building. Courts which

have an average monthly filing of more than 500 cases are classified as Class I Courts. Class I Courts are considered to be full-time courts. In addition to the base requirements, a Class I Court must have a full-time judge, at least three clerks, it must be open during regular business hours, it must have a courtroom which is dedicated for the exclusive use as a court and which meets the master plan guideline adopted by the Judicial Council, and the judge's chambers and clerk's office cannot be shared by another entity.

The State Legislature has provided that any Justice Court which continues to meet the minimum requirements for its class is entitled to be recertified. However, the Judicial Council also has authority to waive any minimum requirement which has not been specifically imposed by the Legislature (i.e. requirements 1 - 10 above, which have been adopted by the Judicial Council pursuant to Section 78A-7-103). Waiver is at the discretion of the Judicial Council and will be based upon a demonstrated need for a court to conduct judicial business and upon public convenience. Any waiver will be for the entire term of the certification. A waiver must be obtained through the Judicial Council each time a court is recertified and, the fact that a waiver has been previously granted, will not be determinative on the issue of waiver for any successive application.

There is a great diversity in the needs of the Justice Courts. The needs of a particular Court are affected by the type of cases filed (some courts have a high percentage of traffic matters, while others handle significant numbers of criminal and small claims matters), the location of the Court, the number of law enforcement agencies served, the policies and procedures followed by each judge with respect to the operation of the Court, and many other factors. Clerical resources and judicial time are particularly sensitive to local conditions. In order to adequately function it is anticipated that some courts will exceed minimum requirements for clerical resources and judicial time. Similarly, the particular circumstances of a court may allow it to operate efficiently with less than the minimum requirements in the above areas; and in such circumstances waiver may be requested.

The statute also provides that the Judicial Council may grant an extension of time for any requirement which is not specifically required by statute. An extension may be granted at the discretion of the Judicial Council where individual circumstances temporarily prevent the entity from meeting a minimum requirement. An extension will be for a specific period of time and the certification of the court will terminate at the end of the extension period. In order for the court to continue to operate beyond the extension period, the court must be certified as meeting all requirements, obtain an additional extension, or obtain a waiver as provided above.

Applications for existing courts for recertification shall be accompanied by a certificate of the judge, on a form approved by the Judicial Council, certifying that the operational standards for the court have been met during the prior year. Any exceptions to compliance with the minimum requirements or operational standards shall be noted on the above form. In addition, individual Justice Court Judges must meet with the governing body of the entity which created the court at least once a year to review the budget of the court, review compliance with the requirements and operational standards of the court, and discuss other items of common concern and shall certify that this meeting has been held, and that the operational standards for the court have been met during the prior year.

Upon submission of an application, the Justice Court Standards Committee will conduct an appropriate independent investigation and notify the entity of its initial recommendations, whether in favor or against certification. If the Committee intends to recommend against certification, it shall specify the minimum requirements which have not been met. The entity

may then present additional information to the Committee, request an extension, or request a waiver. After making an appropriate investigation based upon any additional information or request made by the entity, the Committee will then submit its recommendations to the Judicial Council. The recommendations shall specify whether or not a waiver or extension should be granted, if either has been requested. If the recommendation is against recertification, or against waiver, or against extension, the entity may request that it be allowed to make an appearance before the Judicial Council. Any request to appear before the Judicial Council must be filed within 15 days of notification of the Committee's recommendations.

If you have any questions concerning this application, please contact James Peters, counsel to the Justice Court Standards Committee, at P. O. Box 140241, Salt Lake City, Utah 84114-0241, telephone: (801)578-3824.