

BUSINESS AND CHANCERY COURT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses the establishment of the Business and Chancery Court.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes the Business and Chancery Court;
- ▶ addresses the postjudgment interest rate for judgments of the Business and Chancery Court;
- ▶ addresses retention elections for judges of the Business and Chancery Court;
- ▶ addresses salaries for judges of the Business and Chancery Court;
- ▶ provides that the Business and Chancery Court is not geographically divided into districts;
- ▶ provides the number of judges of the Business and Chancery Court;
- ▶ amends the membership of the Judicial Council to include a member from the Business and Chancery Court;
- ▶ amends provisions regarding the administration of the courts to address the creation of the Business and Chancery Court;
- ▶ addresses a judicial hiring freeze for judges of the Business and Chancery Court;
- ▶ provides that the Business and Chancery Court is a trial court with statewide jurisdiction;



- 28 ▶ addresses the organization and status of the Business and Chancery Court;
- 29 ▶ addresses the jurisdiction of the Business and Chancery Court;
- 30 ▶ provides that the Business and Chancery Court is the trier of fact and law in an
- 31 action before the Business and Chancery Court;
- 32 ▶ addresses a demand for a jury trial in the Business and Chancery Court;
- 33 ▶ addresses the administration of the Business and Chancery Court, including:
- 34 • the terms for judges of the Business and Chancery Court;
- 35 • the presiding judge and associate presiding judge of the Business and Chancery
- 36 Court; and
- 37 • staff and management of the Business and Chancery Court;
- 38 ▶ addresses the location and facilities of the Business and Chancery Court;
- 39 ▶ addresses decisions and rulings by the Business and Chancery Court;
- 40 ▶ addresses the selection process for judges of the Business and Chancery Court,
- 41 including the creation of the Business and Chancery Court Nominating
- 42 Commission;
- 43 ▶ amends provisions regarding the Judicial Conduct Commission; and
- 44 ▶ makes technical and conforming changes.

45 Money Appropriated in this Bill:

46 None

47 Other Special Clauses:

48 This bill provides a special effective date.

49 Utah Code Sections Affected:

50 AMENDS:

51 **15-1-4**, as last amended by Laws of Utah 2018, Chapter 30

52 **20A-12-201**, as last amended by Laws of Utah 2022, Chapter 202

53 **63A-5b-303**, as last amended by Laws of Utah 2022, Chapters 169, 421

54 **67-8-2**, as last amended by Laws of Utah 2022, Chapter 276

55 **77-38-502**, as enacted by Laws of Utah 2020, Chapter 112

56 **78A-1-101**, as renumbered and amended by Laws of Utah 2008, Chapter 3

57 **78A-1-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3

58 **78A-2-103**, as last amended by Laws of Utah 2018, Chapter 25

- 59 [78A-2-104](#), as last amended by Laws of Utah 2021, Chapter 262
- 60 [78A-2-107](#), as last amended by Laws of Utah 2018, Chapters 25, 200
- 61 [78A-2-108](#), as last amended by Laws of Utah 2018, Chapter 25
- 62 [78A-2-110](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 63 [78A-2-113](#), as enacted by Laws of Utah 2010, Chapter 175
- 64 [78A-2-202](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 65 [78A-2-204](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 66 [78A-2-208](#), as last amended by Laws of Utah 2016, Chapter 126
- 67 [78A-2-211](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 68 [78A-2-213](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 69 [78A-2-802](#), as last amended by Laws of Utah 2022, Chapter 334
- 70 [78A-5-107](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 71 [78A-10-103](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 7
- 72 [78A-10-104](#), as last amended by Laws of Utah 2010, Chapter 134 and last amended by
- 73 Coordination Clause, Laws of Utah 2010, Chapter 134
- 74 [78A-10-301](#), as enacted by Laws of Utah 2008, Chapter 3
- 75 [78A-10-302](#), as last amended by Laws of Utah 2010, Chapter 134
- 76 [78A-10-303](#), as last amended by Laws of Utah 2010, Chapter 134
- 77 [78A-10-304](#), as enacted by Laws of Utah 2008, Chapter 3
- 78 [78A-10-305](#), as repealed and reenacted by Laws of Utah 2010, Chapter 286
- 79 [78A-11-102](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 80 [78A-11-103](#), as last amended by Laws of Utah 2020, Chapters 352, 373
- 81 [78A-11-106](#), as last amended by Laws of Utah 2018, Chapter 25

82 ENACTS:

- 83 [78A-1-103.5](#), Utah Code Annotated 1953
- 84 [78A-5a-101](#), Utah Code Annotated 1953
- 85 [78A-5a-102](#), Utah Code Annotated 1953
- 86 [78A-5a-103](#), Utah Code Annotated 1953
- 87 [78A-5a-104](#), Utah Code Annotated 1953
- 88 [78A-5a-105](#), Utah Code Annotated 1953
- 89 [78A-5a-201](#), Utah Code Annotated 1953

- 90 [78A-5a-202](#), Utah Code Annotated 1953
- 91 [78A-5a-203](#), Utah Code Annotated 1953
- 92 [78A-5a-204](#), Utah Code Annotated 1953
- 93 [78A-5a-205](#), Utah Code Annotated 1953
- 94 [78A-5a-301](#), Utah Code Annotated 1953
- 95 [78A-5a-302](#), Utah Code Annotated 1953
- 96 [78A-10-101.5](#), Utah Code Annotated 1953
- 97 [78A-10-401](#), Utah Code Annotated 1953
- 98 [78A-10-402](#), Utah Code Annotated 1953
- 99 [78A-10-403](#), Utah Code Annotated 1953
- 100 [78A-10-404](#), Utah Code Annotated 1953
- 101 [78A-10-405](#), Utah Code Annotated 1953

102

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

104 Section 1. Section **15-1-4** is amended to read:

105 **15-1-4. Interest on judgments.**

106 (1) As used in this section, "federal postjudgment interest rate" means the interest rate
107 established for the federal court system under 28 U.S.C. Sec. 1961, as amended.

108 (2) (a) Except as provided in Subsection (2)(b), a judgment rendered on a lawful
109 contract shall conform to the contract and shall bear the interest agreed upon by the parties,
110 which shall be specified in the judgment.

111 (b) A judgment rendered on a deferred deposit loan subject to Title 7, Chapter 23,
112 Check Cashing and Deferred Deposit Lending Registration Act, shall bear interest at the rate
113 imposed under Subsection (3)(a) on an amount not exceeding the sum of:

- 114 (i) the total of the principal balance of the deferred deposit loan;
- 115 (ii) interest at the rate imposed by the deferred deposit loan agreement for a period not
116 exceeding 10 weeks as provided in Subsection [7-23-401\(4\)](#);
- 117 (iii) costs;
- 118 (iv) attorney fees; and
- 119 (v) other amounts allowed by law and ordered by the court.

120 (3) (a) Except as otherwise provided by law, or as governed by Subsection (4), all other

121 final civil and criminal judgments of the district court [~~and~~], the justice court, and the Business
 122 and Chancery Court shall bear interest at the federal postjudgment interest rate as of January 1
 123 of each year, plus 2%.

124 (b) The postjudgment interest rate in effect at the time of the judgment shall remain the
 125 interest rate for the duration of the judgment.

126 (c) The interest on criminal judgments shall be calculated on the total amount of the
 127 judgment.

128 (d) Interest paid on state revenue shall be deposited in accordance with Section
 129 [63A-3-505](#).

130 (e) Interest paid on revenue to a county or municipality shall be paid to the general
 131 fund of the county or municipality.

132 (4) A judgment under \$10,000 in an action regarding the purchase of goods and
 133 services shall bear interest from the date on which the district court [~~or~~], the justice court, or
 134 the Business and Chancery Court enters the judgment at 10% plus the federal postjudgment
 135 interest rate in effect on January 1 of the year in which the judgment is entered.

136 Section 2. Section **20A-12-201** is amended to read:

137 **20A-12-201. Judicial appointees -- Retention elections.**

138 (1) (a) Each judicial appointee to a court is subject to an unopposed retention election
 139 at the first general election held more than three years after the judge or justice was appointed.

140 (b) After the first retention election:

141 (i) each Supreme Court justice shall be on the regular general election ballot for an
 142 unopposed retention election every tenth year; and

143 (ii) each judge of other courts shall be on the regular general election ballot for an
 144 unopposed retention election every sixth year.

145 (2) (a) Each justice or judge of a court of record who wishes to retain office shall, in
 146 the year the justice or judge is subject to a retention election:

147 (i) file a declaration of candidacy with the lieutenant governor, or with the county clerk
 148 in the candidate's county of residence, within the period beginning on July 1 and ending at 5
 149 p.m. on July 15 in the year of a regular general election; and

150 (ii) pay a filing fee of \$50.

151 (b) (i) Each justice court judge who wishes to retain office shall, in the year the justice

152 court judge is subject to a retention election:

153 (A) file a declaration of candidacy with the lieutenant governor, or with the county
154 clerk in the candidate's county of residence, within the period beginning on July 1 and ending
155 at 5 p.m. on July 15 in the year of a regular general election; and

156 (B) pay a filing fee of \$25 for each judicial office.

157 (ii) If a justice court judge is appointed or elected to more than one judicial office, the
158 declaration of candidacy shall identify all of the courts included in the same general election.

159 (iii) If a justice court judge is appointed or elected to more than one judicial office,
160 filing a declaration of candidacy in one county in which one of those courts is located is valid
161 for the courts in any other county.

162 (3) (a) The lieutenant governor shall, no later than August 31 of each regular general
163 election year:

164 (i) transmit a certified list containing the names of the justices of the Supreme Court
165 [~~and~~], judges of the Court of Appeals, and judges of the Business and Chancery Court
166 declaring their candidacy to the county clerk of each county; and

167 (ii) transmit a certified list containing the names of judges of other courts declaring
168 their candidacy to the county clerk of each county in the geographic division in which the judge
169 filing the declaration holds office.

170 (b) Each county clerk shall place the names of justices and judges standing for
171 retention election in the nonpartisan section of the ballot.

172 (4) (a) At the general election, the ballots shall contain:

173 (i) at the beginning of the judicial retention section of the ballot, the following
174 statement:

175 "Visit judges.utah.gov to learn about the Judicial Performance Evaluation
176 Commission's recommendations for each judge"; and

177 (ii) as to each justice or judge of any court to be voted on in the county, the following
178 question:

179 "Shall _____ (name of justice or judge) be retained in the
180 office of _____? (name of office, such as "Justice of the Supreme
181 Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the Business and Chancery
182 Court of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the

183 Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county)
184 County or (name of municipality)"

185 Yes ()

186 No ()."

187 (b) If a justice court exists by means of an interlocal agreement under Section
188 78A-7-102, the ballot question for the judge shall include the name of that court.

189 (5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge
190 is retained for the term of office provided by law.

191 (b) If the justice or judge does not receive more yes votes than no votes, the justice or
192 judge is not retained, and a vacancy exists in the office on the first Monday in January after the
193 regular general election.

194 (6) A justice or judge not retained is ineligible for appointment to the office for which
195 the justice or judge was defeated until after the expiration of that term of office.

196 (7) (a) If a justice court judge is standing for retention for one or more judicial offices
197 in a county in which the judge is a county justice court judge or a municipal justice court judge
198 in a town or municipality of the fourth or fifth class, as described in Section 10-2-301, or any
199 combination thereof, the election officer shall place the judge's name on the county ballot only
200 once for all judicial offices for which the judge seeks to be retained.

201 (b) If a justice court judge is standing for retention for one or more judicial offices in a
202 municipality of the first, second, or third class, as described in Section 10-2-301, the election
203 officer shall place the judge's name only on the municipal ballot for the voters of the
204 municipality that the judge serves.

205 Section 3. Section 63A-5b-303 is amended to read:

206 **63A-5b-303. Duties and authority of division.**

207 (1) (a) The division shall:

208 (i) subject to Subsection (1)(b), supervise and control the allocation of space, in
209 accordance with legislative directive through annual appropriations acts, other legislation, or
210 statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except
211 as provided in Subsection (3) or as otherwise provided by statute;

212 (ii) assure the efficient use of all building space under the division's supervision and
213 control;

214 (iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by
215 the state or an agency, as authorized by the Legislature through an appropriation act, other
216 legislation, or statute, subject to Subsection (1)(c);

217 (iv) except as otherwise provided by statute, hold title to all real property, buildings,
218 fixtures, and appurtenances owned by the state or an agency;

219 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing
220 title to or an interest in property belonging to the state or to the state's departments, except
221 institutions of higher education and the trust lands administration;

222 (vi) (A) periodically conduct a market analysis of proposed rates and fees; and

223 (B) include in a market analysis a comparison of the division's rates and fees with the
224 rates and fees of other public or private sector providers of comparable services, if rates and
225 fees for comparable services are reasonably available;

226 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and
227 Efficiency, including responsibilities:

228 (A) to implement the state building energy efficiency program under Section
229 [63A-5b-1002](#); and

230 (B) related to the approval of loans from the State Facility Energy Efficiency Fund
231 under Section [63A-5b-1003](#);

232 (viii) convey, lease, or dispose of the real property, water rights, or water shares
233 associated with the Utah State Developmental Center if directed to do so by the Utah State
234 Developmental Center board, as provided in Subsection [62A-5-206.6\(2\)](#); and

235 (ix) take all other action that the division is required to do under this chapter or other
236 applicable statute.

237 (b) In making an allocation of space under Subsection (1)(a)(i), the division shall
238 conduct one or more studies to determine the actual needs of each agency.

239 (c) The division may, without legislative approval, acquire title to real property for use
240 by the state or an agency if the acquisition cost does not exceed \$500,000.

241 (2) The division may:

242 (a) sue and be sued;

243 (b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or
244 otherwise, and hold real or personal property necessary for the discharge of the division's

245 duties; and

246 (c) take all other action necessary for carrying out the purposes of this chapter.

247 (3) (a) The division may not supervise or control the allocation of space for an entity in
248 the public education system.

249 (b) The supervision and control of the legislative area is reserved to the Legislature.

250 (c) The supervision and control of capitol hill facilities and capitol hill grounds is
251 reserved to the State Capitol Preservation Board.

252 (d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of
253 space for an institution of higher education is reserved to the Utah Board of Higher Education.

254 (ii) The Utah Board of Higher Education shall consult and cooperate with the division
255 in the establishment and enforcement of standards for the supervision and control of the
256 allocation of space for an institution of higher education.

257 (e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of
258 space for the courts of record listed in Subsection [78A-1-101](#)(1) is reserved to the
259 Administrative Office of the Courts [~~referred to in Subsection [78A-2-108](#)(3)~~] described in
260 Section [78A-2-108](#).

261 (ii) The Administrative Office of the Courts shall consult and cooperate with the
262 division in the establishment and enforcement of standards for the supervision and control of
263 the allocation of space for the courts of record listed in Subsection [78A-1-101](#)(1).

264 (4) Before the division charges a rate, fee, or other amount for a service provided by
265 the division's internal service fund to an executive branch agency, or to a service subscriber
266 other than an executive branch agency, the division shall:

267 (a) submit an analysis of the proposed rate, fee, or other amount to the rate committee
268 created in Section [63A-1-114](#); and

269 (b) obtain the approval of the Legislature as required by Section [63J-1-410](#) or
270 [63J-1-504](#).

271 Section 4. Section **67-8-2** is amended to read:

272 **67-8-2. Salaries of judges established annually in appropriations act -- Bases of**
273 **salaries -- Additional compensation.**

274 (1) The salaries of judges of courts of record, as described in Section [78A-1-101](#), shall
275 be set annually by the Legislature in an appropriations act.

276 (2) Judicial salaries shall be based on the following percentages of the salary of a
277 district court judge:

- 278 (a) juvenile court judges: 100%;
- 279 (b) Business and Chancery Court judges: 100%;
- 280 ~~[(b)]~~ (c) Court of Appeals judges: 105%; and
- 281 ~~[(c)]~~ (d) justices of the Supreme Court: 110%.

282 (3) (a) A salary described in Subsection (2) does not include additional compensation
283 provided for a presiding judge or associate presiding judge under:

- 284 (i) Section [78A-3-101](#);
- 285 (ii) Section [78A-4-102](#);
- 286 (iii) Section [78A-5-106](#);
- 287 (iv) Section [78A-5a-202](#); or
- 288 ~~[(iv)]~~ (v) Section [78A-6-203](#).

289 (b) Compensation described in Subsection (3)(a) does not constitute a salary for
290 purposes of Utah Constitution, Article VIII, Section 14.

291 Section 5. Section **77-38-502** is amended to read:

292 **77-38-502. Definitions.**

293 As used in this part:

- 294 (1) "Certifying entity" means any of the following:
 - 295 (a) a law enforcement agency, as defined in Section [77-7a-103](#);
 - 296 (b) a prosecutor, as defined in Section [77-22-4.5](#);
 - 297 (c) a court~~[-as defined]~~ described in Section [78A-1-101](#);
 - 298 (d) any other authority that has responsibility for the detection, investigation, or
299 prosecution of a qualifying crime or criminal activity; and
 - 300 (e) an agency that has criminal detection or investigative jurisdiction in the agency's
301 respective areas of expertise, including:
 - 302 (i) the Division of Child and Family Services; and
 - 303 (ii) the Labor Commission.
- 304 (2) "Certifying official" means:
 - 305 (a) the head of the certifying entity;
 - 306 (b) a person in a supervisory role who has been specifically designated by the head of

307 the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency;

308 (c) a judge; or

309 (d) any other certifying official defined under 8 C.F.R. Sec. 214.14.

310 (3) "Commission" means the State Commission on Criminal and Juvenile Justice

311 created in Section [63M-7-201](#).

312 (4) (a) "Qualifying criminal activity" means the same as that term is defined in 8 C.F.R.

313 Sec. 214.14.

314 (b) "Qualifying criminal activity" includes criminal offenses for which the nature and
315 elements of the offenses are substantially similar to the criminal activity described in

316 Subsection (4)(a), and the attempt, conspiracy, or solicitation to commit any of those offenses.

317 Section 6. Section **78A-1-101** is amended to read:

318 **78A-1-101. Courts of this state -- Courts of record.**

319 (1) The following are the courts [~~of justice~~] of this state:

320 (a) the Supreme Court;

321 (b) the Court of Appeals;

322 (c) the Business and Chancery Court;

323 [~~(c)~~] (d) the district courts;

324 [~~(d)~~] (e) the juvenile courts; and

325 [~~(e)~~] (f) the justice courts.

326 (2) All courts are courts of record, except the justice courts, which are courts not of
327 record.

328 Section 7. Section **78A-1-102** is amended to read:

329 **78A-1-102. Trial courts of record -- Divisions.**

330 (1) The district and juvenile courts [~~shall be~~] are divided into eight
331 geographical divisions:

332 [~~(1)~~] (a) First Judicial District [=], which includes Box Elder, Cache, and Rich
333 Counties;

334 [~~(2)~~] (b) Second Judicial District [=], which includes Weber, Davis, and Morgan
335 Counties;

336 [~~(3)~~] (c) Third Judicial District [=], which includes Salt Lake, Summit, and Tooele
337 Counties;

338 [(4)] (d) Fourth Judicial District [=], which includes Utah, Wasatch, Juab, and Millard
339 Counties;

340 [(5)] (e) Fifth Judicial District [=], which includes Beaver, Iron, and Washington
341 Counties;

342 [(6)] (f) Sixth Judicial District [=], which includes Garfield, Kane, Piute, Sanpete,
343 Sevier, and Wayne Counties;

344 [(7)] (g) Seventh Judicial District [=], which includes Carbon, Emery, Grand, and San
345 Juan Counties; and

346 [(8)] (h) Eighth Judicial District [=], which includes Daggett, Duchesne, and Uintah
347 Counties.

348 (2) The Business and Chancery Court is not divided into geographical divisions.

349 Section 8. Section **78A-1-103.5** is enacted to read:

350 **78A-1-103.5. Number of Business and Chancery Court judges.**

351 The Business and Chancery Court shall consist of two judges.

352 Section 9. Section **78A-2-103** is amended to read:

353 **78A-2-103. Definitions.**

354 As used in this chapter:

355 (1) "Conference" means the annual statewide judicial conference established by
356 Section **78A-2-111**.

357 (2) "Council" means the Judicial Council [~~established by Article VIII, Sec. 12, Utah~~
358 ~~Constitution~~].

359 (3) "Courts" mean all courts of this state, including all courts of record and not of
360 record.

361 (4) "Judicial Council" means the Judicial Council established by Utah Constitution,
362 Article VIII, Section 12.

363 Section 10. Section **78A-2-104** is amended to read:

364 **78A-2-104. Judicial Council -- Creation -- Members -- Terms and election --**
365 **Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.**

366 (1) The Judicial Council [~~established by Article VIII, Section 12, Utah Constitution,~~
367 ~~shall be~~] is composed of:

368 (a) the chief justice of the Supreme Court;

369 (b) one member elected by the justices of the Supreme Court;
 370 (c) one member elected by the judges of the Court of Appeals;
 371 (d) one member elected by the judges of the Business and Chancery Court;
 372 [~~(d)~~] (e) six members elected by the judges of the district courts;
 373 [~~(e)~~] (f) three members elected by the judges of the juvenile courts;
 374 [~~(f)~~] (g) three members elected by the justice court judges; and
 375 [~~(g)~~] (h) a member or ex officio member of the Board of Commissioners of the Utah

376 State Bar who is an active member of the Utah State Bar in good standing at the time of
 377 election by the Board of Commissioners.

378 (2) The Judicial Council shall have a seal.

379 (3) (a) The chief justice of the Supreme Court shall act as presiding officer of the
 380 [~~council~~] Judicial Council and chief administrative officer for the courts.

381 (b) The chief justice shall vote only in the case of a tie.

382 [~~(b)~~] (4) (a) All members of the [~~council~~] Judicial Council shall serve for three-year
 383 terms.

384 [~~(i)~~] (b) If a [~~council~~] Judicial Council member should die, resign, retire, or otherwise
 385 fail to complete a term of office, the appropriate constituent group shall elect a member to
 386 complete the term of office.

387 [~~(ii)~~] (c) In courts having more than one member, the members shall be elected to
 388 staggered terms.

389 [~~(iii)~~]

390 (d) The [~~person~~] individual elected by the Board of Commissioners under Subsection
 391 (1)(h) may complete a three-year term of office on the Judicial Council even though the
 392 [~~person~~] individual ceases to be a member or ex officio member of the Board of
 393 Commissioners.

394 (e) The [~~person~~] individual elected by the Board of Commissioners under Subsection
 395 (1)(h) shall be an active member of the Utah State Bar in good standing for the entire term of
 396 the Judicial Council.

397 [~~(e)~~] (f) Elections [~~shall be~~] are held under rules made by the Judicial Council.

398 [~~(4)~~] (5) (a) The [~~council~~] Judicial Council is responsible for the development of
 399 uniform administrative policy for the courts throughout the state.

400 (b) The presiding officer of the Judicial Council is responsible for the implementation
401 of the policies developed by the ~~[council]~~ Judicial Council and for the general management of
402 the courts, with the aid of the state court administrator.

403 (c) The ~~[council]~~ Judicial Council has authority and responsibility to:

404 ~~[(a)]~~ (i) establish and assure compliance with policies for the operation of the courts,
405 including uniform rules and forms; and

406 ~~[(b)]~~ (ii) publish and submit to the governor, the chief justice of the Supreme Court,
407 and the Legislature an annual report of the operations of the courts, which shall include
408 financial and statistical data and may include suggestions and recommendations for legislation.

409 ~~[(5)]~~ (6) The ~~[council]~~ Judicial Council shall establish standards for the operation of
410 the courts of the state, including~~[-, but not limited to,]~~ facilities, court security, support services,
411 and staff levels for judicial and support personnel.

412 ~~[(6)]~~ (7) The ~~[council]~~ Judicial Council shall by rule:

413 (a) establish the time and manner for destroying court records, including computer
414 records~~[-, and shall];~~ and

415 (b) establish retention periods for ~~[these]~~ court records.

416 ~~[(7)]~~ (8) (a) Consistent with the requirements of judicial office and security policies,
417 the ~~[council]~~ Judicial Council shall establish procedures to govern the assignment of state
418 vehicles to public officers of the judicial branch.

419 (b) The vehicles shall be marked in a manner consistent with Section ~~41-1a-407~~ and
420 may be assigned for unlimited use, within the state only.

421 ~~[(8)]~~ (9) (a) The ~~[council]~~ Judicial Council shall:

422 (i) advise judicial officers and employees concerning ethical issues; and ~~[shall]~~

423 (ii) establish procedures for issuing informal and formal advisory opinions on ~~[these]~~
424 ethical issues.

425 (b) Compliance with an informal opinion is evidence of good faith compliance with the
426 Code of Judicial Conduct.

427 (c) A formal opinion constitutes a binding interpretation of the Code of Judicial
428 Conduct.

429 ~~[(9)]~~ (10) (a) The ~~[council]~~ Judicial Council shall establish written procedures
430 authorizing the presiding officer of the ~~[council]~~ Judicial Council to appoint judges of courts of

431 record by special or general assignment to serve temporarily in another level of court in a
432 specific court or generally within that level.

433 ~~(b)~~ The appointment ~~[shall be for a specific period and shall be]~~ under Subsection
434 (10)(a) shall be:

435 (i) for a specific period of time; and

436 (ii) reported to the [council] Judicial Council.

437 ~~[(b)] (c) [These procedures shall be developed]~~ The Judicial Council shall develop the
438 procedures described in this Subsection (10)(a) in accordance with Subsection [78A-2-107(10)]
439 78A-2-107(2) regarding the temporary appointment of judges.

440 ~~[(10)] (11) (a)~~ The Judicial Council may by rule designate municipalities in addition to
441 those designated by statute as a location of a trial court of record.

442 (b) There shall be at least one court clerk's office open during regular court hours in
443 each county.

444 (c) Any trial court of record may hold court in any municipality designated as a
445 location of a court of record.

446 ~~[(11)] (12)~~ The Judicial Council shall by rule determine whether the administration of a
447 court ~~[shall be]~~ is the obligation of the Administrative Office of the Courts or whether the
448 Administrative Office of the Courts should contract with local government for court support
449 services.

450 ~~[(12)] (13)~~ The Judicial Council may by rule direct that a district court location be
451 administered from another court location within the county.

452 ~~[(13)] (14) (a)~~ The Judicial Council shall:

453 (i) establish the Office of Guardian Ad Litem~~;~~ in accordance with Title 78A, Chapter
454 2, Part 8, Guardian Ad Litem; and

455 (ii) establish and supervise a Guardian Ad Litem Oversight Committee.

456 (b) The Guardian Ad Litem Oversight Committee described in Subsection ~~[(13)(a)(ii)]~~
457 (14)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection
458 ~~[(13)(a)(i)]~~ (14)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and
459 federal law, regulation, policy, and court rules.

460 ~~[(14)] (15)~~ The Judicial Council shall establish and maintain, in cooperation with the
461 Office of Recovery Services within the Department of Health and Human Services, the part of

462 the state case registry that contains records of each support order established or modified in the
463 state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42
464 U.S.C. Sec. 654a.

465 Section 11. Section **78A-2-107** is amended to read:

466 **78A-2-107. Court administrator -- Powers, duties, and responsibilities.**

467 Under the general supervision of the presiding officer of the Judicial Council,
468 and within the policies established by the ~~[council;]~~ the Judicial Council:

469 (1) the state court administrator shall:

470 ~~[(1)]~~ (a) organize and administer all of the nonjudicial activities of the courts;

471 ~~[(2)]~~ (b) assign, supervise, and direct the work of the nonjudicial officers of the courts;

472 ~~[(3)]~~ (c) implement the standards, policies, and rules established by the ~~[council]~~
473 Judicial Council;

474 ~~[(4)]~~ (d) formulate and administer a system of personnel administration, including
475 in-service training programs;

476 ~~[(5)]~~ (e) prepare and administer the state judicial budget, fiscal, accounting, and
477 procurement activities for the operation of the courts of record~~[-and];~~

478 (f) assist ~~[justices']~~ justice courts in ~~[their]~~ budgetary, fiscal, and accounting
479 procedures;

480 ~~[(6)]~~ (g) conduct studies of the business of the courts, including the preparation of
481 recommendations and reports relating to ~~[them]~~ the studies;

482 ~~[(7)]~~ (h) develop uniform procedures for the management of court business, including
483 the management of court calendars;

484 ~~[(8)]~~ (i) maintain liaison with the governmental and other public and private groups
485 having an interest in the administration of the courts;

486 ~~[(9)]~~ (j) establish uniform policy concerning vacations and sick leave for judges and
487 nonjudicial officers of the courts;

488 ~~[(10)]~~ (k) establish uniform hours for court sessions throughout the state ~~[and may,~~
489 ~~with the consent of the presiding officer of the Judicial Council, call and appoint justices or~~
490 ~~judges of courts of record to serve temporarily as Court of Appeals, district court, or juvenile~~
491 ~~court judges and set reasonable compensation for their services];~~

492 ~~[(11)]~~ (l) when necessary for administrative reasons, change the county for trial of any

493 case if no party to the litigation files timely objections to this change;

494 ~~[(12)]~~ (m) ~~[(a)]~~ (i) organize and administer a program of continuing education for
495 judges and support staff, including training for justice court judges; and

496 ~~[(b)]~~ (ii) ensure that any training or continuing education described in Subsection
497 ~~[(12)(a)]~~ (1)(m)(i) complies with Title 63G, Chapter 22, State Training and Certification
498 Requirements;

499 ~~[(13)]~~ (n) provide for an annual meeting for each level of the courts of record~~;~~ and the
500 annual judicial conference; and

501 ~~[(14)]~~ (o) perform other duties as assigned by the presiding officer of the ~~[council:]~~
502 Judicial Council; and

503 (2) with the consent of the presiding officer of the Judicial Council, the state court
504 administrator may:

505 (a) call and appoint a justice or judge of a court of record to serve temporarily as a
506 judge of the Court of Appeals, the Business and Chancery Court, a district court, or a juvenile
507 court; and

508 (b) set reasonable compensation for the service of a justice or judge under Subsection
509 (2)(a).

510 Section 12. Section **78A-2-108** is amended to read:

511 **78A-2-108. Assistants for state court administrator -- Appointment of trial court**
512 **executives.**

513 (1) The state court administrator, with the approval of the presiding officer of the
514 ~~[council]~~ Judicial Council, is responsible for the establishment of positions and salaries of
515 assistants as necessary to enable the state court administrator to perform the powers and duties
516 vested in the state court administrator by this chapter, including the positions of appellate court
517 administrator, business and chancery court administrator, district court administrator, juvenile
518 court administrator, and ~~[justices']~~ justice court administrator~~[- whose appointments shall be~~
519 ~~made by the state court administrator].~~

520 (2) The state court administrator shall appoint an appellate court administrator, a
521 business and chancery court administrator, a district court administrator, a juvenile court
522 administrator, and a justice court administrator with the concurrence of the respective boards as
523 established by the ~~[council]~~ Judicial Council.

524 ~~[(2)]~~ (3) (a) The district court administrator, with the concurrence of the presiding
525 judge of a district or the district court judge in single judge districts, may appoint a trial court
526 executive in each district [~~a trial court executive~~].

527 (b) The trial court executive may appoint, subject to budget limitations, necessary
528 support personnel including clerks, research clerks, secretaries, and other persons required to
529 carry out the work of the court.

530 (c) The trial court executive shall supervise the work of all nonjudicial court staff and
531 serve as administrative officer of the district.

532 ~~[(3)]~~ (4) Administrators and assistants appointed under this section [~~shall be~~] are
533 known collectively as the Administrative Office of the Courts.

534 Section 13. Section **78A-2-110** is amended to read:

535 **78A-2-110. Databases for judicial boards.**

536 (1) As used in this section, "judicial board" means any judicial branch board,
537 commission, council, committee, working group, task force, study group, advisory group, or
538 other body with a defined limited membership that is created to operate for more than six
539 months by:

540 (a) the constitution~~[-by]~~;

541 (b) statute~~[-by]~~;

542 (c) judicial order~~[-by]~~;

543 (d) any justice or judge~~[-by]~~;

544 (e) the Judicial Council~~[-or by]~~;

545 (f) the state court administrator, a district court administrator, trial court executive, or a
546 business and chancery court administrator; or [~~by~~]

547 (g) any clerk or administrator in the judicial branch of state government.

548 (2) The Judicial Council shall designate [~~a person from its staff~~] an individual from the
549 Judicial Council's staff to maintain a computerized [~~data base~~] database containing information
550 about all judicial boards.

551 (3) The [~~person~~] individual designated to maintain the [~~data base~~] database shall:

552 (a) ensure that the [~~data base~~] database contains:

553 ~~[(a)]~~ (i) the name of the judicial board;

554 ~~[(b)]~~ (ii) the statutory or constitutional authority for the creation of the judicial board;

555 [(e)] (iii) the court or other judicial entity under whose jurisdiction the judicial board
556 operates or with which the judicial board is affiliated, if any;

557 [(d)] (iv) the name, address, gender, telephone number, and county of each [person]
558 individual currently serving on the judicial board, along with a notation of all vacant or unfilled
559 positions;

560 [(e)] (v) the title of the position held by the [person] individual who appointed each
561 member of the judicial board;

562 [(f)] (vi) the length of the term to which each member of the judicial board was
563 appointed and the month and year that each judicial board member's term expires;

564 [(g)] (vii) the organization, interest group, profession, local government entity, or
565 geographic area that the member of the judicial board represents, if any;

566 [(h)] (viii) whether or not the judicial board allocates state or federal funds and the
567 amount of those funds allocated during the last fiscal year;

568 [(i)] (ix) whether the judicial board is a policy board or an advisory board;

569 [(j)] (x) whether or not the judicial board has or exercises rulemaking authority; and

570 [(k)] (xi) any compensation and expense reimbursement that members of the executive
571 board are authorized to receive[-];

572 ~~[(4) The person designated to maintain the data base shall:]~~

573 [(a)] (b) make the information contained in the [~~data base~~] database available to the
574 public upon request; [~~and~~]

575 [(b)] (c) cooperate with other entities of state government to publish the data or useful
576 summaries of the data[-];

577 ~~[(5)]~~

578 [(a)] (d) [~~The person designated to maintain the data bases shall~~] prepare, publish, and
579 distribute an annual report by April 1 of each year that includes, as of March 1 of that year:

580 (i) the total number of judicial boards;

581 (ii) the name of each of those judicial boards and the court, council, administrator,
582 executive, or clerk under whose jurisdiction the executive board operates or with which the
583 judicial board is affiliated, if any;

584 (iii) for each court, council, administrator, executive, or clerk, the total number of
585 judicial boards under the jurisdiction of or affiliated with that court, council, administrator,

586 executive, or clerk;

587 (iv) the total number of members for each of those judicial boards;

588 (v) whether each board is a policymaking board or an advisory board and the total
589 number of policy boards and the total number of advisory boards; and

590 (vi) the compensation, if any, paid to the members of each of those judicial boards[-];

591 and

592 [~~(b)~~] (e) [~~The person designated to maintain the data bases shall~~] distribute copies of
593 the report described in Subsection (3)(d) to:

594 (i) the chief justice of the Utah Supreme Court;

595 (ii) the state court administrator;

596 (iii) the governor;

597 (iv) the president of the Utah Senate;

598 (v) the speaker of the Utah House;

599 (vi) the Office of Legislative Research and General Counsel; and

600 (vii) any other persons who request a copy of the annual report.

601 Section 14. Section **78A-2-113** is amended to read:

602 **78A-2-113. Judicial hiring freeze authorized.**

603 (1) As used in this section, "General Fund budget deficit" means a situation where
604 General Fund appropriations made by the Legislature for a fiscal year exceed the estimated
605 revenues adopted by the Executive Appropriations Committee of the Legislature for the
606 General Fund in that fiscal year.

607 (2) During a General Fund budget deficit, the governor, president of the Senate,
608 speaker of the House, and chief justice of the Supreme Court, may, by unanimous vote,
609 implement a judicial hiring freeze for judicial vacancies for:

610 (a) a juvenile court district with three or more juvenile court judges;

611 (b) a district court district with three or more district court judges;

612 (c) all Business and Chancery Court judges;

613 [~~(c)~~] (d) all appellate court judges; or

614 [~~(d)~~] (e) any combination of Subsections (2)(a) through [~~(c)~~] (d).

615 (3) In implementing a judicial hiring freeze, the governor, president of the Senate,
616 speaker of the House, and chief justice of the Supreme Court shall:

- 617 (a) establish the length of that hiring freeze; and
- 618 (b) ensure that the hiring freeze lasts at least 90 days, but not longer than the last day of
- 619 the annual general session of the Legislature.

620 Section 15. Section **78A-2-202** is amended to read:

621 **78A-2-202. Authority of court.**

622 (1) [~~All courts of justice have~~] A court of this state has the authority necessary to

623 exercise [~~their~~] the court's jurisdiction.

624 (2) If a procedure for an action is not established, a process may be adopted that

625 conforms with the apparent intent of the statute or rule of procedure.

626 Section 16. Section **78A-2-204** is amended to read:

627 **78A-2-204. Judicial Council to approve court seals.**

628 The Judicial Council shall approve a seal for all courts of [~~justice~~] this state.

629 Section 17. Section **78A-2-208** is amended to read:

630 **78A-2-208. Sittings of courts -- To be public -- Notice to public of recording --**

631 **Right to exclude in certain cases.**

632 (1) The sittings of every court [~~of justice~~] of this state are public, except as provided in

633 Subsections (3) and (4).

634 (2) The Judicial Council shall require that notice be given to the public that the

635 proceedings are being recorded when an electronic or digital recording system is being used

636 during court proceedings.

637 (3) The court may, in [~~its~~] the court's discretion, during the examination of a witness

638 exclude any and all other witnesses in the proceedings.

639 (4) In an action of divorce, criminal conversation, seduction, abortion, rape, or assault

640 with intent to commit rape, the court may, in [~~its~~] the court's discretion, exclude all persons

641 who do not have a direct interest in the proceedings, except jurors, witnesses and officers of the

642 court.

643 Section 18. Section **78A-2-211** is amended to read:

644 **78A-2-211. Court days.**

645 [~~Courts of justice~~] All courts of this state are open and judicial business may be

646 transacted on any day, except as provided in Section **78A-2-212**.

647 Section 19. Section **78A-2-213** is amended to read:

648 **78A-2-213. Proceedings unaffected by vacancy in office of judge.**

649 No proceeding in any court of [justice] this state is affected by a vacancy in the office of
650 all or any of the judges[;] or by the failure of a term of a judge.

651 Section 20. Section **78A-2-802** is amended to read:

652 **78A-2-802. Office of Guardian Ad Litem -- Appointment of director -- Duties of**
653 **director -- Contracts in second, third, and fourth districts.**

654 (1) There is created the Office of Guardian Ad Litem under the direct supervision of
655 the Guardian Ad Litem Oversight Committee described in Subsection [~~78A-2-104(13)~~]
656 78A-2-104(14).

657 (2) (a) The Guardian Ad Litem Oversight Committee shall appoint one individual to
658 serve full time as the guardian ad litem director for the state.

659 (b) The guardian ad litem director shall:

660 (i) serve at the pleasure of the Guardian Ad Litem Oversight Committee, in
661 consultation with the state court administrator;

662 (ii) be an attorney licensed to practice law in this state and selected on the basis of:

663 (A) professional ability;

664 (B) experience in abuse, neglect, and dependency proceedings;

665 (C) familiarity with the role, purpose, and function of guardians ad litem in both
666 juvenile and district courts; and

667 (D) ability to develop training curricula and reliable methods for data collection and
668 evaluation; and

669 (iii) before or immediately after the director's appointment, be trained in nationally
670 recognized standards for an attorney guardian ad litem.

671 (3) The guardian ad litem director shall:

672 (a) establish policy and procedure for the management of a statewide guardian ad litem
673 program;

674 (b) manage the guardian ad litem program to assure that a minor receives qualified
675 guardian ad litem services in an abuse, neglect, or dependency proceeding under Title 80,
676 Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with state and federal
677 law and policy;

678 (c) develop standards for contracts of employment and contracts with independent

679 contractors, and employ or contract with attorneys licensed to practice law in this state, to act
680 as attorney guardians ad litem in accordance with Section [78A-2-803](#);

681 (d) develop and provide training programs for volunteers in accordance with the United
682 States Department of Justice National Court Appointed Special Advocates Association
683 standards;

684 (e) develop and update a guardian ad litem manual that includes:

685 (i) best practices for an attorney guardian ad litem; and

686 (ii) statutory and case law relating to an attorney guardian ad litem;

687 (f) develop and provide a library of materials for the continuing education of attorney
688 guardians ad litem and volunteers;

689 (g) educate court personnel regarding the role and function of guardians ad litem;

690 (h) develop needs assessment strategies, perform needs assessment surveys, and ensure
691 that guardian ad litem training programs correspond with actual and perceived needs for
692 training;

693 (i) design and implement evaluation tools based on specific objectives targeted in the
694 needs assessments described in Subsection (3)(h);

695 (j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee
696 and the Child Welfare Legislative Oversight Panel created in Section [36-33-102](#) regarding:

697 (i) the development, policy, and management of the statewide guardian ad litem
698 program;

699 (ii) the training and evaluation of attorney guardians ad litem and volunteers; and

700 (iii) the number of minors served by the office;

701 (k) hire, train, and supervise investigators; and

702 (l) administer the program of private attorney guardians ad litem established under
703 Section [78A-2-705](#).

704 (4) A contract of employment or independent contract described in Subsection (3)(c)
705 shall provide that an attorney guardian ad litem in the second, third, and fourth judicial districts
706 devote the attorney guardian's ad litem full time and attention to the role of attorney guardian
707 ad litem, having no clients other than the minors whose interest the attorney guardian ad litem
708 represents within the guardian ad litem program.

709 Section 21. Section [78A-5-107](#) is amended to read:

710 **78A-5-107. Court commissioners -- Qualifications -- Appointment -- Functions**
711 **governed by rule.**

712 (1) (a) Court commissioners are quasi-judicial officers of courts of record and have
713 limited judicial authority as provided by this section and rules of the Judicial Council.

714 (b) Court commissioners serve full-time and are subject to the restrictions of Section
715 [78A-2-221](#), which prohibits the practice of law.

716 (2) (a) The Judicial Council shall appoint court commissioners with the concurrence of
717 a majority of the judges of trial courts in the district the court commissioner primarily serves.

718 (b) The Judicial Council may assign court commissioners appointed under this section
719 to serve in one or more judicial districts.

720 (3) A person appointed as a court commissioner shall have the following
721 qualifications:

722 (a) be 25 years [~~of age~~] old or older;

723 (b) be a citizen of the United States;

724 (c) be a resident of this state while serving as court commissioner;

725 (d) be admitted to the practice of law in this state; and

726 (e) possess ability and experience in the areas of law in which the commissioner will
727 be serving.

728 (4) A court commissioner shall take and subscribe to the oath of office as required by
729 Article IV, Sec. 10, Utah Constitution, prior to assuming the duties of the office.

730 (5) Court commissioners shall:

731 (a) comply with applicable constitutional and statutory provisions, court rules and
732 procedures, and rules of the Judicial Council;

733 (b) comply with the Code of Judicial Conduct to the same extent as full-time judges;
734 and

735 (c) successfully complete orientation and education programs as required by the
736 Judicial Council.

737 (6) The presiding judge of the district the commissioner primarily serves:

738 (a) shall develop a performance plan for the court commissioner and annually conduct
739 an evaluation of the commissioner's performance, and shall provide the plan and evaluations to
740 the Judicial Council upon request; and

741 (b) is responsible for the day-to-day supervision of the court commissioner.

742 (7) The Judicial Council shall:

743 (a) establish by rule procedures for the investigation and review of complaints and the
744 discipline and removal of court commissioners; and

745 (b) evaluate court commissioners under the requirements of Subsection [~~78A-2-104(5)~~]
746 78A-2-104(6).

747 (8) The Judicial Council shall make uniform statewide rules defining the duties and
748 authority of court commissioners for each level of court they serve. The rules shall not exceed
749 constitutional limitations upon the delegation of judicial authority. The rules shall at a
750 minimum establish:

751 (a) types of cases and matters commissioners may hear;

752 (b) types of orders commissioners may recommend;

753 (c) types of relief commissioners may recommend; and

754 (d) procedure for timely judicial review of recommendations and orders made by court
755 commissioners.

756 Section 22. Section **78A-5a-101** is enacted to read:

757 **CHAPTER 5a. BUSINESS AND CHANCERY COURT**

758 **Part 1. General Provisions**

759 **78A-5a-101. Definitions.**

760 (1) "Action" means a lawsuit or case commenced in a court.

761 (2) (a) "Asset" means property of all kinds, real or personal and tangible or intangible.

762 (b) "Asset" includes:

763 (i) cash, except for any reasonable compensation or salary for services rendered;

764 (ii) stock or other investments;

765 (iii) goodwill;

766 (iv) an ownership interest;

767 (v) a license;

768 (vi) a cause of action; and

769 (vii) any similar property.

770 (3) "Beneficial shareholder" means the same as that term is defined in Section

771 16-10a-1301.

772 (4) "Blockchain" means a cryptographically secured, chronological, and decentralized
773 consensus ledger or consensus database maintained via Internet, peer-to-peer network, or other
774 interaction.

775 (5) "Blockchain technology" means computer software or hardware or collections of
776 computer software or hardware, or both, that utilize or enable a blockchain.

777 (6) "Board" means the board of directors or trustees of a corporation.

778 (7) "Business" means any enterprise carried on for the purpose of gain or economic
779 profit.

780 (8) (a) "Business organization" means an organization in any form that is primarily
781 engaged in business.

782 (b) "Business organization" includes:

783 (i) an association;

784 (ii) a corporation;

785 (iii) a joint stock company;

786 (iv) a joint venture;

787 (v) a limited liability company;

788 (vi) a mutual fund trust;

789 (vii) a partnership; or

790 (viii) any other similar form of an organization described in Subsections (8)(b)(i)
791 through (vii).

792 (c) "Business organization" does not include a governmental entity as defined in
793 Section [63G-7-102](#).

794 (9) "Claim" means a written demand or assertion in an action.

795 (10) "Consumer contract" means a contract entered into by a consumer for the purchase
796 of goods or services for personal, family, or household purposes.

797 (11) "Court" means the Business and Chancery Court established in Section
798 [78A-5a-102](#).

799 (12) "Decentralized autonomous organization" means an organization that is created by
800 a smart contract deployed on a permissionless blockchain that implements specific
801 decision-making or governance rules enabling individuals to coordinate themselves in a
802 decentralized fashion.

803 (13) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

804 (14) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

805 (15) "Health care" means the same as that term is defined in Section [78B-3-403](#).

806 (16) "Health care provider" means the same as that term is defined in Section

807 [78B-3-403](#).

808 (17) "Monetary damages" does not include:

809 (a) punitive or exemplary damages;

810 (b) prejudgment or postjudgment interest; or

811 (c) attorney fees or costs.

812 (18) "Officer" means an individual designated by a board, or other governing body of a

813 business organization, to act on behalf of the business organization.

814 (19) "Owner" means a person who, directly or indirectly, owns or controls an

815 ownership interest in a business organization regardless of whether the person owns or controls

816 the ownership interest through another person, a power of attorney, or another business

817 organization.

818 (20) "Ownership interest" means an interest owned in a business organization,

819 including any shares, membership interest, partnership interest, or governance or transferable

820 interest.

821 (21) "Permissionless blockchain" means a public distributed ledger that allows an

822 individual to transact and produce blocks in accordance with the blockchain protocol, whereby

823 the validity of the block is not determined by the identity of the producer.

824 (22) "Personal injury" means a physical or mental injury, including wrongful death.

825 (23) "Professional" means an individual whose profession requires a license,

826 registration, or certification on the basis of experience, education, testing, or training.

827 (24) "Security" means the same as that term is defined in Section [61-1-13](#).

828 (25) "Shareholder" means the record shareholder or the beneficial shareholder.

829 (26) "Smart contract" means code deployed on a permissionless blockchain that

830 consists of a set of predefined instructions executed in a distributed manner by the nodes of an

831 underlying blockchain network that produces a change on the blockchain network.

832 (27) "Record shareholder" means the same as that term is defined in Section

833 [16-10a-1301](#).

834 (28) "Trustee" means a person that holds or administers an ownership interest on
835 behalf of a third party.

836 Section 23. Section **78A-5a-102** is enacted to read:

837 **78A-5a-102. Establishment of the Business and Chancery Court -- Organization**
838 **and status.**

839 (1) There is established the Business and Chancery Court for the state.

840 (2) The Business and Chancery Court is a court of record.

841 (3) The Business and Chancery Court is a trial court with limited and statewide
842 jurisdiction over actions and claims as described in Section [78A-5a-103](#).

843 (4) The Business and Chancery Court is of equal status with the district and juvenile
844 courts of the state.

845 (5) The Business and Chancery Court is established as a forum for the resolution of all
846 matters properly brought before the Business and Chancery Court and consistent with
847 applicable constitutional and statutory requirements of due process.

848 (6) The Business and Chancery Court shall have a seal.

849 (7) The judges and clerks of the Business and Chancery Court have the power to
850 administer oaths and affirmations.

851 Section 24. Section **78A-5a-103** is enacted to read:

852 **78A-5a-103. Concurrent jurisdiction of the Business and Chancery Court --**
853 **Exceptions.**

854 (1) The Business and Chancery Court has jurisdiction, concurrent with the district
855 court, over an action:

856 (a) seeking monetary damages of at least \$300,000 or seeking solely equitable relief;
857 and

858 (b) (i) with a claim arising from:

859 (A) a breach of a contract;

860 (B) a breach of a fiduciary duty;

861 (C) a dispute over the internal affairs or governance of a business organization;

862 (D) the sale, merger, or dissolution of a business organization;

863 (E) the sale of substantially all of the assets of a business organization;

864 (F) the receivership or liquidation of a business organization;

865 (G) a dispute over liability or indemnity between or among owners of the same
866 business organization;

867 (H) a dispute over liability or indemnity of an officer or owner of a business
868 organization;

869 (I) a tortious or unlawful act committed against a business organization, including an
870 act of unfair competition, tortious interference, or misrepresentation or fraud;

871 (J) a dispute between a business organization and an insurer regarding a commercial
872 insurance policy;

873 (K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

874 (L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade
875 Secrets Act;

876 (M) the misappropriation of intellectual property;

877 (N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or
878 confidentiality agreement, regardless of whether the agreement is oral or written;

879 (O) a relationship between a franchisor and a franchisee;

880 (P) the purchase or sale of a security or an allegation of security fraud;

881 (Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous
882 organization;

883 (R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or

884 (S) a contract with a forum selection clause for a chancery, business, or commercial
885 court of this state or any other state;

886 (ii) with a malpractice claim concerning services that a professional provided to a
887 business organization; or

888 (iii) that is a shareholder derivative action.

889 (2) The Business and Chancery Court may exercise supplemental jurisdiction over all
890 claims in an action that the Business and Chancery Court has jurisdiction under Subsection (1),
891 except that the Business and Chancery Court may not exercise jurisdiction over:

892 (a) any claim arising from:

893 (i) a consumer contract;

894 (ii) a personal injury, including any personal injury relating to or arising out of health
895 care rendered or which should have been rendered by the health care provider;

896 (iii) a wrongful termination of employment or a prohibited or discriminatory
 897 employment practice;

898 (iv) a violation of Title 13, Chapter 7, Civil Rights;
 899 (v) Title 30, Husband and Wife;
 900 (vi) Title 63G, Chapter 4, Administrative Procedures Act;
 901 (vii) Title 78B, Chapter 6, Part 1, Utah Adoption Act;
 902 (viii) Title 78B, Chapter 6, Part 5, Eminent Domain;
 903 (ix) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer;
 904 (x) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;
 905 (xi) Title 78B, Chapter 12, Utah Child Support Act;
 906 (xii) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement
 907 Act;

908 (xiii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;
 909 (xiv) Title 78B, Chapter 15, Uniform Parentage Act;
 910 (xv) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act; or
 911 (xvi) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and
 912 Visitation Act; or

913 (b) any criminal matter, unless the criminal matter is an act or omission of contempt
 914 that occurs in an action before the Business and Chancery Court.

915 Section 25. Section **78A-5a-104** is enacted to read:

916 **78A-5a-104. Trier of fact and law -- Demand for jury trial.**

917 (1) The Business and Chancery Court is the trier of fact and law in an action before the
 918 Business and Chancery Court.

919 (2) The Business and Chancery Court shall transfer an action to the district court if a
 920 party to the action demands a trial by jury in accordance with the Utah Rules of Civil
 921 Procedure.

922 Section 26. Section **78A-5a-105** is enacted to read:

923 **78A-5a-105. Venue for the Business and Chancery Court.**

924 (1) Title 78B, Chapter 3a, Venue for Civil Actions, does not apply to an action brought
 925 in the Business and Chancery Court.

926 (2) Any requirement in the Utah Code to file or bring an action in a specific district or

927 county does not apply to an action brought in the Business and Chancery Court.

928 Section 27. Section **78A-5a-201** is enacted to read:

929 **Part 2. Administration**

930 **78A-5a-201. Judges of the Business and Chancery Court -- Terms.**

931 (1) A judge of the Business and Chancery Court is appointed to initially serve until the
932 first general election held more than three years after the day on which the appointment is
933 effective.

934 (2) After the initial term described in Subsection (1), the term of office of a judge of
935 the Business and Chancery Court is six years and commences on the first Monday in January
936 following the date of election.

937 (3) A judge of the Business and Chancery Court whose term expires may serve, upon
938 request of the Judicial Council, until a successor is appointed and qualified.

939 Section 28. Section **78A-5a-202** is enacted to read:

940 **78A-5a-202. Presiding judge - Associate presiding judge -- Compensation --**
941 **Powers -- Duties.**

942 (1) (a) The judges of the Business and Chancery Court shall elect a presiding judge
943 from among the members of the court by majority vote of all judges.

944 (b) The presiding judge shall receive \$2,000 per annum as additional compensation for
945 the period served as presiding judge.

946 (2) The presiding judge has the following authority and responsibilities, consistent with
947 the policies of the Judicial Council:

948 (a) implementing policies of the Judicial Council; and

949 (b) exercising powers and performing administrative duties as authorized by the
950 Judicial Council.

951 (3) (a) If the Business and Chancery Court has more than two judges, the judges of the
952 Business and Chancery Court may elect an associate presiding judge from among the members
953 of the court by majority vote of all judges.

954 (b) The associate presiding judge shall receive \$1,000 per annum as additional
955 compensation for the period served as associate presiding judge.

956 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall
957 assume the responsibilities of the presiding judge.

958 (b) The associate presiding judge shall perform other duties assigned by the presiding
959 judge.

960 Section 29. Section **78A-5a-203** is enacted to read:

961 **78A-5a-203. Administrative system -- Case management -- Clerk of the court --**
962 **Employees.**

963 (1) (a) There is established the State Business and Chancery Court Administrative
964 System.

965 (b) The Judicial Council shall administer the operation of the State Business and
966 Chancery Court Administrative System.

967 (2) The Business and Chancery Court shall develop a case management system that:

968 (a) ensures judicial accountability for the just and timely disposition of cases; and

969 (b) provides each judge of the Business and Chancery Court a full judicial workload
970 that accommodates differences in the subject matter or complexity of cases assigned to
971 different judges of the Business and Chancery Court.

972 (3) The clerk of the Business and Chancery Court shall:

973 (a) take charge of and safely keep the court seal;

974 (b) take charge of and safely keep or dispose of all books, papers, and records filed or
975 deposited with the clerk and all other records required by law or the rules of the Judicial
976 Council;

977 (c) issue all notices, processes, and summonses as authorized by law;

978 (d) keep a record of all proceedings, actions, orders, judgments, and decrees of the
979 court;

980 (e) supervise the deputy clerks as required to perform the duties of the clerk's office;
981 and

982 (f) perform other duties as required by the presiding judge, the business and chancery
983 court administrator, applicable law, and the rules of the Judicial Council.

984 (4) All employees, except judges of the Business and Chancery Court, are selected,
985 promoted, and discharged through the state courts personnel system for the Business and
986 Chancery Court under the direction and rules of the Judicial Council.

987 Section 30. Section **78A-5a-204** is enacted to read:

988 **78A-5a-204. Location of the Business and Chancery Court -- Court facilities --**

989 **Costs.**

- 990 (1) The Business and Chancery Court is located in Salt Lake City.
- 991 (2) The Business and Chancery Court may perform any of the Business and Chancery
- 992 Court's functions in any location within the state.
- 993 (3) The Judicial Council shall provide, from appropriations made by the Legislature,
- 994 court space suitable for the conduct of court business for the Business and Chancery Court.
- 995 (4) The Judicial Council may, in order to carry out the Judicial Council's obligation to
- 996 provide facilities for the Business and Chancery Court, lease space to be used by the Business
- 997 and Chancery Court.
- 998 (5) A lease or reimbursement for the Business and Chancery Court must comply with
- 999 the standards of the Division of Facilities Construction and Management that are applicable to
- 1000 state agencies.
- 1001 (6) The cost of salaries, travel, and training required for the discharge of the duties of
- 1002 judges, secretaries of judges or court executives, court executives, and court reporters for the
- 1003 Business and Chancery Court are paid from appropriations made by the Legislature.

1004 Section 31. Section **78A-5a-205** is enacted to read:

1005 **78A-5a-205. Court sessions.**

1006 The Business and Chancery Court shall hold court at least once in each quarter of the

1007 year.

1008 Section 32. Section **78A-5a-301** is enacted to read:

1009 **Part 3. Business and Chancery Court Proceedings**

1010 **78A-5a-301. Publication of decisions and orders.**

1011 The Business and Chancery Court shall:

- 1012 (1) publish all final decisions and orders issued by the Business and Chancery Court;
- 1013 and
- 1014 (2) make all final decisions and orders public on the Utah Courts' website.

1015 Section 33. Section **78A-5a-302** is enacted to read:

1016 **78A-5a-302. Tentative ruling before oral argument.**

1017 The Business and Chancery Court shall provide the parties with a proposed ruling on

1018 each motion within 48 hours before the day on which oral argument is held on the motion.

1019 Section 34. Section **78A-10-101.5** is enacted to read:

1020 78A-10-101.5. Definitions.

1021 As used in this part:

1022 (1) "Commissioner" means a member appointed to a judicial nominating commission.

1023 (2) "Judicial nominating commission" means a commission created under Section

1024 78A-10-201, 78A-10-301, or 78A-10-402.

1025 Section 35. Section **78A-10-103** is amended to read:

1026 **78A-10-103. Procedures governing meetings of judicial nominating commissions.**

1027 (1) The Commission on Criminal and Juvenile Justice shall:

1028 (a) in consultation with the Judicial Council, enact rules establishing procedures
1029 governing the meetings of [~~the judicial nominating commissions~~] a judicial nominating

1030 commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1031 and

1032 (b) ensure that those procedures include:

1033 (i) a minimum recruitment period of at least 30 days but not more than 90 days, unless
1034 fewer than nine applications are received for a judicial vacancy, in which case the recruitment
1035 period may be extended up to 30 days;

1036 (ii) standards for maintaining the confidentiality of the applications and related
1037 documents;

1038 (iii) standards governing the release of applicant names before nomination;

1039 (iv) standards for destroying the records of the names of applicants, applications, and
1040 related documents upon completion of the nominating process;

1041 (v) an opportunity for public comment concerning the nominating process,
1042 qualifications for judicial office, and individual applicants;

1043 (vi) evaluation criteria for the selection of judicial nominees;

1044 (vii) procedures for taking summary minutes at [~~nominating commission meetings~~] a
1045 judicial nominating commission meeting;

1046 (viii) procedures for simultaneously forwarding the names of nominees to the
1047 governor, the president of the Senate, and the Office of Legislative Research and General
1048 Counsel;

1049 (ix) standards governing a nominating commissioner's disqualification and inability to
1050 serve; and

1051 (x) procedures that require the Administrative Office of the Courts to immediately
1052 inform the governor when a judge is removed, resigns, or retires.

1053 (2) In determining which of the applicants are the most qualified, [~~the nominating~~
1054 ~~commissions~~] a judicial nominating commission shall determine by a majority vote of the
1055 commissioners present which of the applicants best possess the ability, temperament, training,
1056 and experience that qualifies them for the office.

1057 (3) (a) Except as provided under Subsection (3)(b):

1058 (i) the appellate court nominating commission shall certify to the governor a list of the
1059 seven most qualified applicants per vacancy;

1060 (ii) the business and chancery court nominating commission shall certify to the
1061 governor a list of the seven most qualified applicants per vacancy; and

1062 [~~(ii)~~] (iii) [~~trial court nominating commissions~~] a district and juvenile court nominating
1063 commission shall certify to the governor a list of the five most qualified applicants per vacancy.

1064 (b) If a judicial nominating commission is considering applicants for more than one
1065 judicial vacancy existing at the same time and for the same court, the judicial nominating
1066 commission shall include one additional applicant for each additional vacancy in the court in
1067 the list of applicants the judicial nominating commission certifies to the governor.

1068 (4) [~~Nominating commissions~~] A judicial nominating commission shall ensure that the
1069 list of applicants submitted to the governor:

1070 (a) meet the qualifications required by law to fill the office; and

1071 (b) are willing to serve.

1072 (5) In determining which of the applicants are the most qualified, [~~nominating~~
1073 ~~commissions~~] a judicial nominating commission may not decline to submit a candidate's name
1074 to the governor merely because:

1075 (a) the judicial nominating commission had declined to submit that candidate's name to
1076 the governor to fill a previous vacancy;

1077 (b) a previous judicial nominating commission had declined to submit that candidate's
1078 name to the governor; or

1079 (c) that a judicial nominating commission or a previous judicial nominating
1080 commission had submitted the applicant's name to the governor and the governor selected
1081 someone else to fill the vacancy.

1082 (6) A judicial nominating commission may not nominate a justice or judge who was
1083 not retained by the voters for the office for which the justice or judge was defeated until after
1084 the expiration of that term of office.

1085 (7) ~~[Judicial nominating commissions are]~~ A judicial nominating commission is
1086 exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

1087 Section 36. Section **78A-10-104** is amended to read:

1088 **78A-10-104. Convening of judicial nominating commissions -- Certification to**
1089 **governor of nominees -- Meetings to investigate prospective candidates.**

1090 (1) Unless a hiring freeze is implemented in accordance with Section **78A-2-113**, the
1091 governor shall ensure that:

1092 (a) the recruitment period to fill a judicial vacancy begins 235 days before the effective
1093 date of a vacancy, unless sufficient notice is not given, in which case the recruitment period
1094 shall begin within 10 days of receiving notice;

1095 (b) the recruitment period is a minimum of 30 days but not more than 90 days, unless
1096 fewer than nine applications are received, in which case the recruitment period may be
1097 extended up to 30 days; and

1098 (c) the chair of the judicial nominating commission having authority over the vacancy
1099 shall convene a meeting not more than 10 days after the close of the recruitment period.

1100 (2) The time limits in Subsection (1) shall begin to run the day the hiring freeze ends.

1101 (3) The judicial nominating commission may:

1102 (a) meet as necessary to perform ~~[its]~~ the judicial nominating commission's function;
1103 and

1104 (b) investigate prospective candidates.

1105 (4) Not later than 45 days after convening~~[-the]~~:

1106 (a) the appellate court nominating commission shall certify to the governor a list of the
1107 seven most qualified applicants per vacancy;

1108 (b) the business and chancery court nominating commission shall certify to the
1109 governor a list of the seven most qualified applicants per vacancy; and

1110 ~~[(b)]~~ (c) ~~[trial court]~~ a district and juvenile court nominating commission shall certify
1111 to the governor a list of the five most qualified applicants per vacancy.

1112 (5) The governor shall fill the vacancy within 30 days after receiving the list of

1113 nominees.

1114 (6) If the governor fails to fill the vacancy within 30 days of receiving the list of
1115 nominees from the judicial nominating commission, the chief justice of the Supreme Court
1116 shall, within 20 days, appoint ~~[a person]~~ an individual from the list of nominees certified to the
1117 governor.

1118 (7) A judicial nominating commission may not nominate ~~[a person]~~ an individual who
1119 has served on a judicial nominating commission within six months of the date that the
1120 commission was last convened.

1121 Section 37. Section **78A-10-301** is amended to read:

1122 **Part 3. District and Juvenile Court Nominating Commissions**

1123 **78A-10-301. Definitions -- Creation.**

1124 (1) As used in this part:

1125 (a) "Commission" means a district and juvenile court nominating commission created
1126 in Subsection (2).

1127 (b) "Commissioner" means a member of a district and juvenile court nominating
1128 commission created in Subsection (2).

1129 (2) There is created a ~~[Trial Court Nominating Commission]~~ district and juvenile court
1130 nominating commission for each geographical division of the ~~[trial courts of record]~~ district
1131 and juvenile courts under Section [78A-1-102](#).

1132 ~~[(2)]~~ (3) ~~[The Trial Court Nominating Commission]~~ A commission shall nominate
1133 judges of the district court and the juvenile court within ~~[its]~~ the commission's geographical
1134 division.

1135 Section 38. Section **78A-10-302** is amended to read:

1136 **78A-10-302. Membership.**

1137 (1) ~~[The Trial Court Nominating Commission]~~ A district and juvenile court nominating
1138 commission shall consist of seven commissioners, each appointed by the governor to serve a
1139 single four-year term.

1140 (2) Each commissioner shall:

1141 (a) be a United States citizen;

1142 (b) be a resident of Utah;

1143 (c) be a resident of the geographic division to be served by the commission to which

1144 the commissioner is appointed; and

1145 (d) serve until the commissioner's successor is appointed.

1146 (3) The governor may not appoint:

1147 (a) a commissioner to serve successive terms;

1148 (b) a member of the Legislature to serve as a member of a [~~Trial Court Nominating~~
1149 ~~Commission~~] commission; or

1150 (c) more than four commissioners from the same political party to a [~~Trial Court~~
1151 ~~Nominating Commission~~] commission.

1152 (4) The governor shall appoint two commissioners from a list of nominees provided by
1153 the Utah State Bar.

1154 (5) The Utah State Bar shall submit:

1155 (a) six nominees from Districts 2, 3, and 4; and

1156 (b) four nominees from Districts 1, 5, 6, 7, and 8.

1157 (6) The governor may reject any list and request a new list of nominees.

1158 (7) The governor may not appoint more than four persons who are members of the
1159 Utah State Bar to a [~~Trial Court Nominating Commission~~] commission.

1160 (8) The chief justice of the Supreme Court shall appoint another member of the
1161 Judicial Council to serve as an ex officio, nonvoting member of each [~~Trial Court Nominating~~
1162 ~~Commission~~] commission.

1163 (9) The governor shall appoint the chair of each [~~Trial Court Nominating Commission~~]
1164 commission from among [~~its~~] the commission's membership.

1165 Section 39. Section **78A-10-303** is amended to read:

1166 **78A-10-303. Procedure.**

1167 (1) Four commissioners are a quorum.

1168 (2) The governor shall appoint a member of the governor's staff to serve as staff to each
1169 [~~Trial Court Nominating Commission~~] commission.

1170 (3) The governor shall:

1171 (a) ensure that each [~~Trial Court Nominating Commission~~] commission follows the
1172 rules promulgated by the Commission on Criminal and Juvenile Justice; and

1173 (b) resolve any questions regarding those rules.

1174 (4) A [~~member of a Trial Court Nominating Commission~~] commissioner who is also a

1175 member of the Utah State Bar may recuse [~~himself~~] oneself if there is a conflict of interest that
1176 makes the member unable to serve.

1177 Section 40. Section **78A-10-304** is amended to read:

1178 **78A-10-304. Vacancies.**

1179 (1) The governor shall fill any vacancy on [~~the Trial Court Nominating Commission~~] a
1180 commission.

1181 (2) If a commissioner is disqualified or otherwise unable to serve, the governor shall
1182 appoint a new commissioner of the same political party as the unavailable commissioner.

1183 (3) If a vacancy occurs among commission members who are also members of the Utah
1184 State Bar, the governor shall replace that commissioner with [~~a person~~] an individual from a
1185 list of nominees submitted by the Utah State Bar as provided in Section **78A-10-302**.

1186 (4) The governor shall ensure that each [~~person~~] individual who is appointed to fill any
1187 vacancy in the office of commissioner, other than a vacancy caused by expiration of term, is a
1188 member of the same political party as the commissioner whom the [~~person~~] individual
1189 replaced.

1190 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
1191 appointed for the unexpired term of the commissioner being replaced and may not be
1192 reappointed.

1193 Section 41. Section **78A-10-305** is amended to read:

1194 **78A-10-305. Expenses -- Per diem and travel.**

1195 A [~~member~~] commissioner may not receive compensation or benefits for the
1196 [~~member's~~] commissioner's service[;] but may receive per diem and travel expenses in
1197 accordance with:

1198 (1) Section **63A-3-106**;

1199 (2) Section **63A-3-107**; and

1200 (3) rules made by the Division of Finance [~~pursuant to~~] in accordance with Sections
1201 **63A-3-106** and **63A-3-107**.

1202 Section 42. Section **78A-10-401** is enacted to read:

1203 **Part 4. Business and Chancery Court Nominating Commission**

1204 **78A-10-401. Definitions.**

1205 As used in this part:

1206 (1) "Commission" means the Business and Chancery Court Nominating Commission
1207 created in Section 78A-10-402.

1208 (2) "Commissioner" means an individual appointed by the governor to serve on the
1209 Business and Chancery Court Nominating Commission.

1210 Section 43. Section 78A-10-402 is enacted to read:

1211 **78A-10-402. Creation.**

1212 (1) There is created the Business and Chancery Court Nominating Commission.

1213 (2) The Business and Chancery Court Nominating Commission shall nominate
1214 individuals to fill judicial vacancies on the Business and Chancery Court.

1215 Section 44. Section 78A-10-403 is enacted to read:

1216 **78A-10-403. Membership -- Appointment -- Vacancies -- Removal.**

1217 (1) (a) The Business and Chancery Court Nominating Commission shall consist of
1218 seven commissioners, each appointed by the governor to serve a four-year term.

1219 (b) The commission shall consist of at least two commissioners who are members of
1220 the Utah State Bar.

1221 (2) Each commissioner shall:

1222 (a) be a United States citizen;

1223 (b) be a resident of Utah; and

1224 (c) serve until the commissioner's successor is appointed.

1225 (3) (a) For the appointment of a commissioner who is a member of the Utah State Bar:

1226 (i) the Utah State Bar shall submit to the governor a list of six nominees to serve as a
1227 commissioner; and

1228 (ii) the governor shall appoint a commissioner from the list of nominees provided by
1229 the Utah State Bar.

1230 (b) The governor may:

1231 (i) reject the list submitted by the Utah State Bar under Subsection (3)(a); and

1232 (ii) request a new list of nominees from the Utah State Bar.

1233 (4) The governor may not appoint:

1234 (a) a commissioner to serve successive terms;

1235 (b) a member of the Legislature to serve as a member of the commission; or

1236 (c) more than four individuals who are from the same political party to the

1237 commission.

1238 (5) The chief justice of the Supreme Court shall appoint a member of the Judicial
1239 Council to serve as an ex officio, nonvoting member of the commission.

1240 (6) The governor shall appoint the chair of the commission from among the
1241 membership of the commission.

1242 (7) (a) The governor shall fill any vacancy in the commission caused by the expiration
1243 of a commissioner's term.

1244 (b) If there is a vacancy among the commissioners who are members of the Utah State
1245 Bar, the governor shall replace that commissioner with an individual from a list of nominees
1246 submitted by the Utah State Bar in accordance with Subsection (3).

1247 (8) (a) If a commissioner is disqualified or is otherwise unable to serve, the governor
1248 shall appoint a replacement commissioner:

1249 (i) to fill the vacancy for the unexpired term of the unavailable commissioner; and
1250 (ii) who is the same political party as the unavailable commissioner.

1251 (b) A replacement commissioner appointed under Subsection (8)(a) may not be
1252 reappointed upon the expiration of the term of service.

1253 (9) The governor shall ensure that each individual who is appointed to fill any vacancy
1254 on the commission is a member of the same political party as the commissioner whom the
1255 individual replaced.

1256 Section 45. Section **78A-10-404** is enacted to read:

1257 **78A-10-404. Procedure -- Staff -- Rules -- Recusal.**

1258 (1) Four commissioners are a quorum.

1259 (2) The governor shall appoint a member of the governor's staff to serve as staff to the
1260 commission.

1261 (3) The governor shall:

1262 (a) ensure that the commission follows the rules promulgated by the State Commission
1263 on Criminal and Juvenile Justice under Section [78A-10-103](#); and

1264 (b) resolve any questions regarding the rules described in Subsection (3)(a).

1265 (4) A commissioner who is a member of Utah State Bar may recuse oneself if there is a
1266 conflict of interest that makes the commissioner unable to serve.

1267 Section 46. Section **78A-10-405** is enacted to read:

1268 **78A-10-405. Expenses -- Per diem and travel.**

1269 A commissioner may not receive compensation or benefits for the commissioner's
1270 service but may receive per diem and travel expenses in accordance with:

1271 (1) Section 63A-3-106;

1272 (2) Section 63A-3-107; and

1273 (3) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
1274 63A-3-107.

1275 Section 47. Section **78A-11-102** is amended to read:

1276 **78A-11-102. Definitions.**

1277 As used in this chapter:

1278 (1) "Commission" means the Judicial Conduct Commission established by Utah
1279 Constitution Article VIII, Section 13, and this chapter.

1280 (2) (a) "Complaint" includes:

1281 (i) a written complaint against a judge; or

1282 (ii) an allegation based on reliable information received in any form, from any source,
1283 that alleges, or from which a reasonable inference can be drawn that a judge is in violation of
1284 any provision of Utah Constitution Article VIII, Section 13.

1285 (b) "Complaint" does not include an allegation initiated by the commission or its staff.

1286 (3) "Investigation" means an inquiry into an allegation of misconduct, including a
1287 search for and examination of evidence concerning the allegations, which begins upon the
1288 receipt of a complaint and is completed when either the complaint is dismissed by a majority
1289 vote of the commission or when an order is sent to the Supreme Court for its review in
1290 accordance with Utah Constitution Article VIII, Section 13.

1291 (4) "Judge" includes the chief justice of the Supreme Court, a justice of the Supreme
1292 Court, ~~[an appellate court judge]~~ a judge of the Court of Appeals, a judge of the Business and
1293 Chancery Court, a district court judge, an active senior judge, a juvenile court judge, a justice
1294 court judge, an active senior justice court judge, and a judge pro tempore of any court of this
1295 state.

1296 Section 48. Section **78A-11-103** is amended to read:

1297 **78A-11-103. Judicial Conduct Commission -- Members -- Terms -- Vacancies --**
1298 **Voting -- Power of chair.**

- 1299 (1) (a) The membership of the commission consists of the following 11 members:
- 1300 ~~[(a)]~~ (i) two members of the House of Representatives to be appointed by the speaker
- 1301 of the House of Representatives for a four-year term, not more than one of whom may be of the
- 1302 same political party as the speaker;
- 1303 ~~[(b)]~~ (ii) two members of the Senate to be appointed by the president of the Senate for
- 1304 a four-year term, not more than one of whom may be of the same political party as the
- 1305 president;
- 1306 ~~[(c)]~~ (iii) two members of, and in good standing with, the Utah State Bar, who shall be
- 1307 appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may
- 1308 reside in the same judicial district;
- 1309 ~~[(d)]~~ (iv) three persons not members of the Utah State Bar, who shall be appointed by
- 1310 the governor, with the advice and consent of the Senate, in accordance with Title 63G, Chapter
- 1311 24, Part 2, Vacancies, for four-year terms, not more than two of whom may be of the same
- 1312 political party as the governor; and
- 1313 ~~[(e)]~~ (v) subject to Subsection (1)(b), two judges to be appointed by a majority of the
- 1314 Utah Supreme Court for a four-year term~~[-, neither of whom may:].~~
- 1315 (b) The two judges appointed under Subsection (1)(a)(v) may not:
- 1316 (i) be a member of the Utah Supreme Court;
- 1317 (ii) serve on the same level of court ~~[as the other]~~; and
- 1318 (iii) ~~[if trial judges,]~~ serve primarily in the same judicial district ~~[as the other]~~ if the
- 1319 judges are district or juvenile court judges.
- 1320 (2) (a) The terms of the members shall be staggered so that approximately half of the
- 1321 commission expires every two years.
- 1322 (b) Members of the commission may not serve longer than eight years.
- 1323 (3) The commission shall establish guidelines and procedures for the disqualification
- 1324 of any member from consideration of any matter. A judge who is a member of the commission
- 1325 or the Supreme Court may not participate in any proceedings involving the judge's own
- 1326 removal or retirement.
- 1327 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall
- 1328 be appointed by the appointing authority for that position for the unexpired term.
- 1329 (b) If the appointing authority fails to appoint a replacement, the commissioners who

1330 have been appointed may act as a commission under all the provisions of this section.

1331 (5) Six members of the commission shall constitute a quorum. Any action of a
1332 majority of the quorum constitutes the action of the commission.

1333 (6) (a) At each commission meeting, the chair and executive director shall schedule all
1334 complaints to be heard by the commission and present any information from which a
1335 reasonable inference can be drawn that a judge has committed misconduct so that the
1336 commission may determine by majority vote of a quorum whether the executive director shall
1337 draft a written complaint in accordance with Subsection 78A-11-102(2)(b).

1338 (b) The chair and executive director may not act to dismiss any complaint without a
1339 majority vote of a quorum of the commission.

1340 (c) A member of the commission described in Subsection [~~(1)~~(d)] (1)(a)(iv) shall
1341 comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3,
1342 Conflicts of Interest.

1343 (7) It is the responsibility of the chair and the executive director to ensure that the
1344 commission complies with the procedures of the commission.

1345 (8) The chair shall be nonvoting except in the case of a tie vote.

1346 (9) The chair shall be allowed the actual expenses of secretarial services, the expenses
1347 of services for either a court reporter or a transcriber of electronic tape recordings, and other
1348 necessary administrative expenses incurred in the performance of the duties of the commission.

1349 (10) Upon a majority vote of the quorum, the commission may:

1350 (a) employ an executive director, legal counsel, investigators, and other staff to assist
1351 the commission; and

1352 (b) incur other reasonable and necessary expenses within the authorized budget of the
1353 commission and consistent with the duties of the commission.

1354 (11) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
1355 Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

1356 Section 49. Section 78A-11-106 is amended to read:

1357 **78A-11-106. Criminal investigation of a judge -- Administrative leave.**

1358 (1) (a) (i) If the commission, during the course of its investigation into an allegation of
1359 judicial misconduct, receives information upon which a reasonable person might conclude that
1360 a misdemeanor or felony under state or federal law has been committed by a judge other than

1361 the chief justice of the Supreme Court, the commission shall immediately refer the allegation
1362 and any information relevant to the potential criminal violation to the chief justice of the
1363 Supreme Court.

1364 (ii) (A) Unless the allegation is plainly frivolous, the commission shall also
1365 immediately refer the allegation of criminal misconduct and any information relevant to the
1366 potential criminal violation to the local prosecuting attorney having jurisdiction to investigate
1367 and prosecute the crime.

1368 (B) If the local prosecuting attorney receiving the allegation of criminal misconduct of
1369 a judge practices before that judge on a regular basis, or has a conflict of interest in
1370 investigating the crime, the local prosecuting attorney shall refer the allegation of criminal
1371 misconduct to another local or state prosecutor who would not have the same disability or
1372 conflict.

1373 (C) The commission may concurrently proceed with its investigation of the complaint
1374 without waiting for the resolution of the criminal investigation by the prosecuting attorney.

1375 (b) The chief justice of the Supreme Court may place [~~a justice of the Supreme Court,~~
1376 ~~an appellate court judge, district court judge, active senior judge, juvenile court judge, justice~~
1377 ~~court judge, active senior justice court judge, or judge pro tempore]~~ a judge on administrative
1378 leave with or without pay if the chief justice has a reasonable basis to believe that the alleged
1379 crime occurred, that the [~~justice of the Supreme Court, appellate court judge, district court~~
1380 ~~judge, active senior judge, juvenile court judge, justice court judge, active senior justice court~~
1381 ~~judge, or judge pro tempore]~~ judge committed the crime, and that the crime was either a felony
1382 or a misdemeanor which conduct may be prejudicial to the administration of justice or which
1383 brings a judicial office into disrepute.

1384 (2) (a) If the commission, during the course of its investigation into an allegation of
1385 judicial misconduct, receives information upon which a reasonable person might conclude that
1386 a misdemeanor or felony under state or federal law has been committed by the chief justice of
1387 the Supreme Court, the commission shall immediately refer the allegation and any information
1388 relevant to the potential criminal violation to two justices of the Supreme Court and the local
1389 prosecuting attorney in accordance with Subsection (1)(a)(ii).

1390 (b) Two justices of the Supreme Court may place the chief justice of the Supreme
1391 Court on administrative leave with or without pay if the two justices have a reasonable basis to

1392 believe that the alleged crime occurred, that the chief justice committed the crime, and that the
1393 crime was either a felony or a misdemeanor which conduct may be prejudicial to the
1394 administration of justice or which brings a judicial office into disrepute.

1395 (3) (a) If a judge is or has been criminally charged or indicted for a class A
1396 misdemeanor or any felony under state or federal law and if the Supreme Court has not already
1397 acted under Subsection (1) or (2), the appropriate member or members of the Supreme Court as
1398 provided in Subsection (1) or (2), shall place the judge on administrative leave with or without
1399 pay pending the outcome of the criminal proceeding.

1400 (b) The state court administrator shall, for the duration of the administrative leave,
1401 withhold all employer and employee contributions required under Sections 49-17-301 and
1402 49-18-301.

1403 (c) If the judge is not convicted of the criminal charge, and if after an investigation and
1404 final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the
1405 Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or
1406 compensation for the period of administrative leave, and all contributions withheld under
1407 Subsection (3)(b) shall be deposited in accordance with Sections 49-17-301 and 49-18-301.

1408 (4) The chief justice of the Supreme Court or two justices of the Supreme Court who
1409 ordered the judge on administrative leave shall order the reinstatement of the judge:

1410 (a) if the prosecutor to whom the allegations are referred by the commission determines
1411 no charge or indictment should be filed; or

1412 (b) after final disposition of the criminal case, if the judge is not convicted of a
1413 criminal charge and if the commission has not ordered the removal of the judge.

1414 Section 50. **Effective date.**

1415 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

1416 (2) The enactment in this bill of Section 78A-5a-103 takes effect on October 1, 2024.