

COURT COMMISSIONER AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to court commissioners.

Highlighted Provisions:

This bill:

- ▶ allows for a court commissioner to serve in a problem-solving court; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-5-107, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section **78A-5-107** is amended to read:

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

(1) (a) [~~Court commissioners are~~] A court commissioner is a quasi-judicial [~~officers of courts~~] officer of a court of record and [~~have~~] has limited judicial authority as provided by this



28 section and the rules of the Judicial Council.

29 (b) [~~Court commissioners serve~~] A court commissioner serves full-time and [~~are~~] is
30 subject to the restrictions of Section 78A-2-221 [~~, which prohibits~~] prohibiting the practice of
31 law.

32 (2) (a) The Judicial Council shall appoint [~~court commissioners~~] a court commissioner
33 with the concurrence of a majority of the judges of trial courts in the district that the court
34 commissioner primarily serves.

35 (b) The Judicial Council may assign [~~court commissioners~~] a court commissioner
36 appointed under this section to serve;

37 (i) in one or more judicial districts[:];

38 (ii) in a problem-solving court, including a mental health court, a veterans treatment
39 court, or a drug court; or

40 (iii) in one or more judicial districts and in a problem-solving court.

41 (3) [~~A person~~] An individual appointed as a court commissioner shall [~~have~~] meet the
42 following qualifications:

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

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

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

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

47 (e) possess ability and experience in the areas of law in which the court commissioner
48 will be serving.

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

51 (5) [~~Court commissioners~~] A court commissioner shall:

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

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

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

58 (6) The presiding judge of the district [~~the~~] in which a court commissioner primarily

59 serves:

60 (a) (i) shall develop a performance plan for the court commissioner and [~~annually~~]
61 conduct annually an evaluation of the commissioner's performance[;]; and

62 (ii) shall provide the performance plan and [~~evaluations~~] evaluation to the Judicial
63 Council upon request; and

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

65 (7) The Judicial Council shall:

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

68 (b) evaluate court commissioners under the requirements of Subsection 78A-2-104(5).

69 (8) (a) The Judicial Council shall make uniform statewide rules defining the duties and
70 authority of court commissioners for each level and type of court [~~they~~] that court
71 commissioners serve.

72 (b) The rules shall not exceed constitutional limitations upon the delegation of judicial
73 authority.

74 (c) The rules shall at a minimum establish:

75 [~~(a)~~] (i) types of cases and matters [~~commissioners~~] a court commissioner may hear;

76 [~~(b)~~] (ii) types of orders [~~commissioners~~] a court commissioner may recommend;

77 [~~(c)~~] (iii) types of relief [~~commissioners~~] a court commissioner may recommend; and

78 [~~(d)~~] (iv) the procedure for timely judicial review of recommendations and orders made
79 by [~~court commissioners~~] a court commissioner.