

1 **JOINT RESOLUTION AMENDING RULES OF CIVIL**
2 **PROCEDURE ON CHANGE OF JUDGE AS A MATTER OF RIGHT**

3 2024 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Stephanie Gricius**

6 Senate Sponsor: Keith Grover

7 **LONG TITLE**

8 **General Description:**

9 This joint resolution amends Rule 63A of the Utah Rules of Civil Procedure regarding the
10 change of judge as a matter of right.

11 **Highlighted Provisions:**

12 This resolution:

- 13 ▸ amends Rule 63A of the Utah Rules of Civil Procedure to allow for a change of judge by
- 14 a party in a civil action; and
- 15 ▸ makes technical and conforming changes.

16 **Other Special Clauses:**

17 This resolution provides a special effective date.

18 **Utah Rules of Civil Procedure Affected:**

19 AMENDS:

20 **Rule 63A**, Utah Rules of Civil Procedure

21 *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each*
22 *of the two houses voting in favor thereof:*

23 As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of
24 procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all
25 members of both houses of the Legislature:

26 Section 1. **Rule 63A**, Utah Rules of Civil Procedure is amended to read:

Rule 63A . Change of judge as a matter of right.

(a) Change of judge by one side of an action.

(a) (1) Right to change a judge by one side of an action.

27 (a) (1) (A) In a civil action pending in a court in a county with seven or more district court
28 judges, each side is entitled to one change of judge as a matter of right under this paragraph (a).

29 (a) (1) (B) Even if two or more parties on one side of a civil action have adverse or hostile
30 interests, the action, whether single or consolidated, must be treated as only having two sides
31 for purposes of a changing judge under this paragraph (a).

32 (a) (1) (C) A side is not entitled to more than one change of judge under this paragraph (a).

33 (a) (1) (D) Regardless of when a party joins a civil action, a party is not entitled to a change
34 of judge as a matter of right under this paragraph (a) if the notice of a change of judge is
35 untimely under paragraph (a)(2).

36 **(a) (2) Notice of a change of judge.**

37 (a) (2) (A) A party seeking a change of judge under this paragraph (a) must file a notice of a
38 change of judge with the clerk of the court.

39 (a) (2) (B) If the notice of a change of judge is timely under this paragraph (a)(2), the notice
40 must be granted.

41 (a) (2) (C) In filing a notice of a change of judge under this paragraph (a), a party is not
42 required to state any reason for seeking a change of judge, but the party must attest in good
43 faith that the notice is not being filed:

44 (a) (2) (C) (i) for the purpose to delay any action or proceeding; or

45 (a) (2) (C) (ii) to change the judge on the grounds of race, gender, or religious affiliation.

46 (a) (2) (D) The notice must be filed:

47 (a) (2) (D) (i) on the side of a plaintiff or petitioner, within seven days after the day on
48 which a judge is first assigned to the action or proceeding; or

49 (a) (2) (D) (ii) on the side of a defendant or respondent, within seven days after the day on
50 which the defendant or respondent is served the complaint or petition, or at the time of the first
51 filing by the defendant or respondent with the court, whichever occurs first.

52 (a) (2) (E) Failure to file a timely notice of a change of judge under this rule precludes a
53 change of judge under this paragraph (a).

54 **(a) (3) Assignment of action.**

55 (a) (3) (A) Upon the filing of a notice under this paragraph (a), the judge assigned to the
56 action must take no further action in the case.

57 (a) (3) (B) The action must be promptly reassigned to another judge within the county.

58 (a) (3) (C) If the action is unable to be reassigned to another judge within the county, the
59 action may be transferred to a court in another county in accordance with Rule 42.

60 **(a) (4) Exceptions.** A party, or a side, is not entitled to change a judge as a matter of right

61 under this paragraph (a):

62 (a) (4) (A) in any proceeding regarding a petition for post-conviction relief under Rule 65C;

63 (a) (4) (B) on a petition to modify child custody, child support, or alimony, unless the judge

64 assigned to the action is not the same judge assigned to any of the previous actions between

65 the parties;

66 (a) (4) (C) in an action before the juvenile court or the Business and Chancery Court;

67 (a) (4) (D) in an action in which the judge is sitting as a water or tax judge;

68 (a) (4) (E) in an action on remand from an appellate court; or

69 (a) (4) (F) if an action is unable to be transferred under paragraph (a)(3)(C) to another

70 county in accordance with Rule 42.

71 **[(a) Notice of change.] (b) Right to change a judge by agreement of the parties.**

72 **(b) (1) Notice of a change of judge.**

73 (b) (1) (A) Except in actions with only one party, all parties joined in the action may, by

74 unanimous agreement and without cause, change the judge assigned to the action by filing a

75 notice of change of judge.

76 (b) (1) (B) The parties shall send a copy of the notice to the assigned judge and the

77 presiding judge.

78 (b) (1) (C) The notice shall be signed by all parties and shall state: (1) the name of the

79 assigned judge; (2) the date on which the action was commenced; (3) that all parties joined in

80 the action have agreed to the change; (4) that no other persons are expected to be named as

81 parties; and (5) that a good faith effort has been made to serve all parties named in the

82 pleadings.

83 (b) (1) (D) The notice shall not specify any reason for the change of judge.

84 (b) (1) (E) Under no circumstances shall more than one change of judge be allowed under

85 this [rule] paragraph (b) in an action.

86 **(b) (2) Time for filing a notice.**

87 (b) (2) (A) Unless extended by the court upon a showing of good cause, the notice must be

88 filed within 90 days after commencement of the action or prior to the notice of trial setting,

89 whichever occurs first.

90 (b) (2) (B) Failure to file a timely notice precludes any change of judge under this [rule]

91 paragraph (b).

92 **[(c)] (b) (3) Assignment of action.**

93 (b) (3) (A) Upon the filing of a notice of change, the assigned judge shall take no further

94 action in the case.

95 (b) (3) (B) The presiding judge shall promptly determine whether the notice is proper and,
96 if so, shall reassign the action.

97 (b) (3) (C) If the presiding judge is also the assigned judge, the clerk shall promptly send
98 the notice to the associate presiding judge, to another judge of the district, or to any judge of a
99 court of like jurisdiction, who shall determine whether the notice is proper and, if so, shall
100 reassign the action.

101 [(d)] (b) (4) **Nondisclosure to court.** No party shall communicate to the court, or cause
102 another to communicate to the court, the fact of any party's seeking consent to a notice of
103 change.

104 [(e)] (c) **Rule 63 unaffected.** [This rule does not affect any rights under Rule 63.] Nothing
105 in this rule precludes the right of any party to seek disqualification of a judge under Rule 63.

106 Section 2. **Effective date.**

107 (1) In accordance with Utah Constitution, Article VIII, Section 4, the amendments in
108 this resolution pass upon approval by a two-thirds vote of all members elected to each
109 house.

110 (2) After passage of this resolution under Subsection (1), the amendments in this resolution
111 take effect on January 1, 2025.