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Recommended Citation

Utah Code Annotated Title 78 (Michie, 1987)

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TITLE 78

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CHAPTER 1 ENUMERATION OF COURTS

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78-1-3. Effect of act on commission and election functions.

78-1-1. Courts of justice enumerated.

The following are the courts of justice of this state:

- (1) the Supreme Court;
- (2) the Court of Appeals;
- (3) the district courts;
- (4) the circuit courts;
- (5) the juvenile courts; and
- (6) the justices' courts.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-1-1; L. 1977, ch. 77, § 55; 1986, ch. 47, § 38.

Amendment Notes. — The 1986 amendment deleted former Subsection (1), which read "The senate sitting as a court of impeachment"; redesignated former Subsection (2) as present Subsection (1); and added present Subsection (2).

Cross-References. — Circuit courts, § 78-4-1 et seq.

Circuit courts, applicability of civil rules to, U.R.C.P. 81(c).

Commission on judicial qualifications, §§ 78-7-27 to 78-7-30.

Court Administrator Act, § 78-3-18 et seq.

Distribution and separation of powers, Utah Const., Art. V, Sec. 1.

District courts, Utah Const., Art. VIII, Secs. 1, 5 to 7; § 78-3-1 et seq.

Impeachment, § 77-6-1 et seq.

Judges' Retirement Act, § 49-7a-1 et seq.

Justice's courts, Utah Const., Art. VIII, Secs. 1, 5 to 7; §§ 77-25-1 et seq., 78-5-1 et seq.

Justice's courts, applicability of civil rules to, U.R.C.P. 81(c).

Juvenile courts, § 78-3a-1 et seq.

Legislature as judge of own membership, Utah Const., Art. VI, Sec. 10.

Small claims courts as department in justice's and circuit courts, § 78-6-1 et seq.

Supreme Court, Utah Const., Art. VIII, Secs. 1 to 4; § 78-2-1 et seq.

Trial by jury, right to, Utah Const., Art. I, Sec. 10; §§ 77-1-6, 77-27-2, 78-21-1; U.R.C.P. 38, 39.

COLLATERAL REFERENCES

Am. Jur. 2d. — 20 Am. Jur. 2d Courts § 16 et seq.

C.J.S. — 21 C.J.S. Courts § 1 et seq.

Key Numbers. — Courts ⇐ 1.

78-1-2. Courts of record enumerated.

The courts enumerated in the first five subdivisions [subsections] of the preceding section [§ 78-1-1] are courts of record.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-1-2.

COLLATERAL REFERENCES

Am. Jur. 2d. — 20 Am. Jur. 2d Courts § 26.

C.J.S. — 21 C.J.S. Courts §§ 1, 5.

Key Numbers. — Courts ⇌ 1, 48.

78-1-3. Effect of act on commission and election functions.

(1) At the first election of members of the judicial council held after April 28, 1986, the effective date of this act, election of one of the members designated by Subsection 78-3-21(1)(d) shall be for a term of one year. Initial election of one of the members designated by Subsections 78-3-21(1)(d), (e), (f), and (g) shall be for a term of two years. Initial election of all other elected council members shall be for a term of three years. Thereafter, all elected council members shall be elected for terms of three years. The current judicial council shall continue in existence with full authority until the election of the members of the council as provided in this section.

(2) The appellate court nominating commission established by Subsection 20-1-7.2(1) may not be convened initially prior to July 1, 1986 nor later than September 1, 1986.

(3) The provisions in this act for court jurisdictions may not be implemented until January 1, 1987. Courts then continue to have jurisdiction to dispose of any cases pending on that date.

(4) (a) Any justice or judge of a court of record, whose election to office was effective on or before July 1, 1985, shall hold the office for the remainder of the term to which he was elected. The justice or judge is subject to an unopposed retention election as provided by law at the general election immediately preceding the expiration of the respective term of office.

(b) Any justice or judge of a court of record whose appointment to office was effective on or before July 1, 1985, is subject to an unopposed retention election as provided by law at the first general election held more than three years after the date of the appointment.

(c) Any justice or judge of a court of record whose appointment to office was effective after July 1, 1985, is subject to an unopposed retention election as provided by law at the first general election held more than three years after the date of the appointment.

History: C. 1953, 78-1-3, enacted by L. 1986, ch. 47, § 39.

Meaning of "this act". — The term "this act" in Subsections (1) and (3) refers to Laws

1986, Chapter 47, which implemented the judicial article of the Utah Constitution, Article VIII.

CHAPTER 2

SUPREME COURT

Section		Section	
78-2-1.	Number of justices — Term — Chief justice and associate chief justice — Selection and functions.	78-2-5.	Court always open for transaction of business.
78-2-1.5.	Repealed.	78-2-6.	Appellate court administrator.
78-2-1.6.	Repealed.	78-2-7 to 78-2-10.	Repealed.
78-2-2.	Supreme Court jurisdiction.	78-2-11.	Reporter — Deputy clerks — Assistants.
78-2-3.	Repealed.	78-2-12.	Postage and office supplies.
78-2-4.	Supreme Court — Rulemaking, judges pro tempore, and practice of law.	78-2-13.	Bailiffs and assistant librarian.
		78-2-14.	Sheriffs to attend and serve.

78-2-1. Number of justices — Term — Chief justice and associate chief justice — Selection and functions.

- (1) The Supreme Court consists of five justices.
- (2) A justice of the Supreme Court shall be appointed initially to serve until the first general election held more than three years after the effective date of the appointment. Thereafter, the term of office of a justice of the Supreme Court is ten years and until his successor is appointed and approved in accordance with § 20-1-7.1.
- (3) The justices of the Supreme Court shall elect a chief justice from among the members of the court by a majority vote of all justices. The term of the office of chief justice is four years. The chief justice may not serve successive terms. The chief justice may resign from the office of chief justice without resigning from the Supreme Court. The chief justice may be removed from the office of chief justice by a majority vote of all justices of the Supreme Court.
- (4) If the justices are unable to elect a chief justice within 30 days of a vacancy in that office, the associate chief justice shall act as chief justice until a chief justice is elected under this section. If the associate chief justice is unable or unwilling to act as chief justice, the most senior justice shall act as chief justice until a chief justice is elected under this section.
- (5) In addition to the chief justice's duties as a member of the Supreme Court, the chief justice has additional duties as provided by law.
- (6) There is created the office of associate chief justice. The term of office of the associate chief justice is two years. The associate chief justice may serve in that office no more than two successive terms. The associate chief justice shall be elected by a majority vote of the members of the Supreme Court and shall be allocated duties as the chief justice decides. If the chief justice is absent or otherwise unable to serve, the associate chief justice shall serve as chief justice. The chief justice, where not inconsistent with law, may delegate responsibilities to the associate chief justice.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-2-1; L. 1969, ch. 247, § 1; 1986, ch. 47, § 40.

Amendment Notes. — The 1986 amendment rewrote this section.

Cross-References. — Chief justice, Utah Const., Art. VIII, Sec. 2.

Disqualification in particular case, Utah Const., Art. VIII, Sec. 2.

Judicial nomination and selection, § 20-1-7.1 et seq.

Membership on state law library board, § 37-1-1.	Qualifications of justices, Utah Const., Art. VIII, Sec. 7.
Proceedings unaffected by vacancy, § 78-7-21.	Retirement, Utah Const., Art. VIII, Sec. 15; § 49-7a-1 et seq., §§ 78-7-29, 78-7-30. Salary, Utah Const., Art. VIII, Sec. 14.

COLLATERAL REFERENCES

Am. Jur. 2d. — 20 Am. Jur. 2d Courts §§ 67, 68.	Key Numbers. — Courts ⇌ 101, 248; Judges ⇌ 1, 7 to 12.
C.J.S. — 21 C.J.S. Courts § 465; 48A C.J.S. Judges §§ 3, 7, 8, 21 to 25, 85.	

78-2-1.5. Repealed.

Repeals. — Section 78-2-1.5 (L. 1969, ch. 225, § 2), relating to salaries of Supreme Court justices, was repealed by Laws 1971, ch. 182, § 4.

78-2-1.6. Repealed.

Repeals. — Section 78-2-1.6 (L. 1979, ch. 134, § 1; 1981, ch. 156, § 1), relating to salaries of justices, was repealed by Laws 1981, ch. 267, § 2, effective July 1, 1982.

78-2-2. Supreme Court jurisdiction [Effective until January 1, 1988].

(1) The Supreme Court has original jurisdiction to answer questions of state law certified by a court of the United States.

(2) The Supreme Court has original jurisdiction to issue all extraordinary writs and authority to issue all writs and process necessary to carry into effect its orders, judgments, and decrees or in aid of its jurisdiction.

(3) The Supreme Court has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

- (a) a judgment of the Court of Appeals;
- (b) cases certified to the Supreme Court by the Court of Appeals prior to final judgment by the Court of Appeals;
- (c) discipline of lawyers;
- (d) final orders of the Judicial Conduct Commission;
- (e) final orders and decrees in cases originating in:
 - (i) the Public Service Commission;
 - (ii) the State Tax Commission;
 - (iii) the Board of State Lands;
 - (iv) the Board of Oil, Gas, and Mining; and
 - (v) the state engineer;
- (f) a final judgment or decree of any court of record holding a statute of the United States or this state unconstitutional on its face under the Constitution of the United States or the Utah Constitution;
- (g) interlocutory appeals from any court of record involving a charge of a first degree or capital felony;
- (h) appeals from the district court involving a conviction of a first degree or capital felony; and

- (i) orders, judgments, and decrees of any court of record over which the Court of Appeals does not have original appellate jurisdiction.
- (4) The Supreme Court may transfer to the Court of Appeals any of the matters over which the Supreme Court has original appellate jurisdiction, except for the following matters:
- (a) first degree and capital felony convictions;
 - (b) election and voting contests;
 - (c) reapportionment of election districts;
 - (d) retention or removal of public officers;
 - (e) general water adjudication;
 - (f) taxation and revenue; and
 - (g) those matters described in Subsections (3)(a) through (h).
- (5) The Supreme Court has sole discretion in granting or denying a petition for writ of certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall review those cases certified to it by the Court of Appeals under Subsection (3)(b).

Supreme Court jurisdiction [Effective January 1, 1988].

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(5) The Supreme Court has sole discretion in granting or denying a petition for writ of certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall review those cases certified to it by the Court of Appeals under Subsection (3)(b).

(6) The Supreme Court shall comply with the requirements of Chapter 46b, Title 63, in its review of agency adjudicative proceedings.

History: C. 1953, 78-2-2, enacted by L. 1986, ch. 47, § 41; 1987, ch. 161, § 303.

Amended effective January 1, 1988. — Laws 1987, ch. 161, § 303 amends this section effective January 1, 1988. See catchline "Amendment Notes," below.

Repeals and Enactments. — Laws 1986, ch. 47, § 41 repeals former § 78-2-2, as enacted by Laws 1951, ch. 58, § 1, relating to original appellate jurisdiction of Supreme Court, and enacts the above section.

Amendment Notes. — The 1987 amendment, effective January 1, 1988, added Subsection (6).

Cross-References. — Appeals from juvenile courts, § 78-3a-51.

Appeals in criminal cases, U.R.Cr.P. 26.

Certiorari, Utah Const., Art. VIII, Sec. 4; U.R.C.P. 65B.

Chief justice to preside over impeachment of governor, § 77-6-3.

Election contest appeals, §§ 20-3-35, 20-15-14.

Extraordinary writs, U.R.C.P. 65B.

Industrial commission orders, review of, § 35-1-36.

Jurisdiction, Utah Const., Art. VIII, Sec. 3.

Public service commission orders, exclusive jurisdiction to review, §§ 54-7-16 to 54-7-18.

State bar, promulgation of rules, review of disciplinary orders, §§ 78-51-14, 78-51-19.

Unemployment compensation decisions, review of, § 35-4-10.

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— Probate orders.

Certiorari.

Original jurisdiction.

—Equity.

—Extraordinary writs.

Rehearings.

—District judge filling vacancy.

—Newly elected justice.

Scope of review.

In general.

Supreme Court is exclusive judge of its own jurisdiction. *National Bank v. Lewis*, 13 Utah 507, 45 P. 890 (1896).

The Supreme Court is not a court of general original jurisdiction; it is a reviewing court. *Nielsen v. Utah Nat'l Bank*, 40 Utah 95, 120 P. 211 (1911).

Supreme Court can inquire into its own jurisdiction no matter how that question is called to its attention and regardless of whether par-

ties desire it to do so. *Woldberg v. Industrial Comm'n*, 74 Utah 309, 279 P. 609 (1929).

Question of Supreme Court's jurisdiction to hear and determine an appeal is one that can be raised by the court on its own motion. *City of Logan City v. Blotter*, 75 Utah 272, 284 P. 333 (1929).

Appellate jurisdiction.

—Probate orders.

Final orders in probate were appealable un-

der former § 20-2-2, Code 1943. In re Cliff's Estate, 101 Utah 343, 122 P.2d 196 (1942).

Certiorari.

Even prior to express statutory authorization, Supreme Court had original jurisdiction to issue a writ of certiorari. *Young v. Cannon*, 2 Utah 560 (1880).

Where district court exceeded its jurisdiction on appeal from justice of peace, Supreme Court had power by certiorari to review such jurisdictional question, judgment not being reviewable by further appeal. *Oregon Short Line R.R. v. District Court*, 30 Utah 371, 85 P. 360 (1906).

Supreme Court, and not justice thereof, was authorized to issue writ of certiorari, and statute, which conferred such power on justice of Supreme Court, had to give way to Constitution. *Robinson v. District Court*, 38 Utah 379, 113 P. 1026 (1910).

Supreme court can exercise a reasonable discretion in granting or refusing a writ of certiorari. *Rohwer v. District Court*, 41 Utah 279, 125 P. 671 (1912).

Original jurisdiction.

—Equity.

Supreme Court no longer possesses any original jurisdiction in equity cases; in making its own findings in such cases, the court acts merely as an appellate or reviewing tribunal. In re *Raleigh's Estate*, 48 Utah 128, 158 P. 705 (1916).

—Extraordinary writs.

Even prior to express statutory authorization, Supreme Court had jurisdiction to issue writ of mandamus in a proper case. *Maxwell v. Burton*, 2 Utah 595 (1880).

It did not necessarily follow from fact that Supreme Court had original jurisdiction to issue writs, enumerated in former Utah Const., Art. VIII, Sec. 4, that it was court's duty to issue such writs in every instance merely on applications for them. *State v. Booth*, 21 Utah 88, 59 P. 553 (1899).

Former Utah Const., Art. VIII, Sec. 4, in conferring authority upon the Supreme Court to issue writs of prohibition, contemplated a writ having the same character and functions as the writ defined by the territorial statute then in existence. *Barnes v. City of Lehi City*, 74 Utah 321, 279 P. 878 (1929).

After remittitur had gone down to district court, Supreme Court did not have exclusive jurisdiction to issue a writ of prohibition in the cause. *Plutus Mining Co. v. Orme*, 76 Utah 286, 289 P. 132 (1930).

Where situation called for relief more nearly analogous to purpose of writ of mandamus rather than to writ of prohibition, and neither standing alone would bring about desired result, Supreme Court had authority to issue both writs of mandamus and prohibition. *Child*

v. Ogden State Bank, 81 Utah 464, 20 P.2d 599, 88 A.L.R. 1284 (1933).

Whether district court had jurisdiction was not determinative of whether Supreme Court would entertain application for writ of prohibition; whether there was a plain, speedy and adequate remedy at law was determinative. *Mayers v. Bronson*, 100 Utah 279, 114 P.2d 213 (1941).

Objections to jurisdiction of administrative tribunals are to be first presented to such tribunal before applying to Supreme Court for a writ of prohibition. *Furbreeders Agrl. Coop. v. Wiesley*, 102 Utah 601, 132 P.2d 384 (1942).

Supreme Court's discretion was exercised in favor of making writ of prohibition permanent to prevent enforcement of city (now circuit) court criminal contempt judgment, as against contention that petitioner had plain, speedy and adequate remedy by appeal, where alleged contempt was not committed in presence of court or judge, and court did not acquire jurisdiction over either person of petitioner or of offense claimed because of absence of initiatory affidavit required by former § 104-45-3, so that contempt proceedings were void. *Robinson v. City Court*, 112 Utah 36, 185 P.2d 256 (1947).

Rehearings.

—District judge filling vacancy.

A district judge called to sit in lieu of disqualified justice is a member of the court for all purposes so far as his right to participate in the case and in its decision and should sit in on a rehearing even after the vacancy is filled. In re *Thompson's Estate*, 72 Utah 17, 269 P. 103 (1927).

—Newly elected justice.

Member of Supreme Court, elected after case had been decided, was not entitled to participate in consideration for rehearing. *Cordner v. Cordner*, 91 Utah 474, 64 P.2d 828 (1937).

Scope of review.

In original proceeding in Supreme Court to review proceedings of district court, Supreme Court will ignore mere irregularities or legal errors in trial court, and would limit review to question of whether district court exceeded its jurisdiction or was without jurisdiction in making and entering the judgment complained of. *Jeffries v. Third Judicial District Court*, 90 Utah 525, 63 P.2d 242 (1936).

Where no motion was made for directed verdict or new trial, Supreme Court was precluded from reviewing sufficiency of evidence in cause at law, since under former Utah Const., Art. VIII, Sec. 9 and predecessor of this section review could be made only on questions of law. *Brigham v. Moon Lake Elec. Ass'n*, 24 Utah 2d 292, 470 P.2d 393 (1970).

COLLATERAL REFERENCES

Utah Law Review. — The Utah Supreme Court and the Rule of Law: Phillips and the Bill of Rights in Utah, Edwin B. Firmage, 1975 Utah L. Rev. 593.

Am. Jur. 2d. — 20 Am. Jur. 2d Courts §§ 98, 107 to 110.

C.J.S. — 21 C.J.S. Courts § 465.

A.L.R. — Judgment granting or denying

writ of mandamus or prohibition as res judicata, 21 A.L.R.3d 206.

Mandamus to compel disciplinary investigation or action against physician or attorney, 33 A.L.R.3d 1429.

Key Numbers. — Courts ⇌ 206 (17 1/2), 207, 248.

78-2-3. Repealed.

Repeals. — Laws 1986, ch. 47, § 80 repeals § 78-2-3, as enacted by Laws 1951, ch. 58, § 1, pertaining to the concurrence of three justices in a judgment.

78-2-4. Supreme Court — Rulemaking, judges pro tempore, and practice of law.

(1) The Supreme Court shall adopt rules of procedure and evidence for use in the courts of the state and shall by rule manage the appellate process. The Legislature may amend the rules of procedure and evidence adopted by the Supreme Court upon a vote of two-thirds of all members of both houses of the Legislature.

(2) Except as otherwise provided by the Utah Constitution, the Supreme Court by rule may authorize retired justices and judges and judges pro tempore to perform any judicial duties. Judges pro tempore shall be citizens of the United States, Utah residents, and admitted to practice law in Utah.

(3) The Supreme Court shall by rule govern the practice of law, including admission to practice law and the conduct and discipline of persons admitted to the practice of law.

History: C. 1953, 78-2-4, enacted by L. 1986, ch. 47, § 42.

Repeals and Enactments. — Laws 1986, ch. 47, § 42 repeals former § 78-2-4, as enacted by Laws 1951, ch. 58, § 1, pertaining to rule-

making powers of Supreme Court, and enacts the present § 78-2-4.

Cross-References. — Right of courts of record to make own rules, § 78-7-6.

NOTES TO DECISIONS

Cited in State v. Banner, 717 P.2d 1325 (Utah 1986).

COLLATERAL REFERENCES

Utah Law Review. — Utah Rules of Evidence 1983, 1985 Utah L. Rev. 63, 64.

Am. Jur. 2d. — 20 Am. Jur. 2d Courts §§ 82 to 86.

C.J.S. — 21 C.J.S. Courts § 465.

A.L.R. — Propriety and permissibility of judge engaging in practice of law, 17 A.L.R.4th 829.

Key Numbers. — Courts ⇌ 78 to 86, 248.

78-2-5. Court always open for transaction of business.

The Supreme Court shall always be open for the transaction of business. Adjournments from day to day, or from time to time, are to be construed as recesses in the sessions, and shall not prevent the court from sitting at any time.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-2-5.

Cross-References. — Courts to always be open, Utah Const., Art. I, Sec. 11.

COLLATERAL REFERENCES

Am. Jur. 2d. — 20 Am. Jur. 2d Courts § 42.
C.J.S. — 21 C.J.S. Courts § 465.

of interference with access to courts, 23 A.L.R. Fed. 6.

A.L.R. — Civil rights relief under Federal Civil Rights Act to state prisoners complaining

Key Numbers. — Courts ⇌ 248.

78-2-6. Appellate court administrator.

The appellate court administrator shall appoint clerks and support staff as necessary for the operation of the Supreme Court and the Court of Appeals. The duties of the clerks and support staff shall be established by the appellate court administrator, and powers established by rule of the Supreme Court.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-2-6; 1986, ch. 47, § 43.

Cross-References. — Fees, § 21-1-4.

Amendment Notes. — The 1986 amendment rewrote this section.

Practice of law or partnership with practicing attorney prohibited, § 78-51-39.

Salary of clerk, § 67-8-2.

COLLATERAL REFERENCES

Am. Jur. 2d. — 15A Am. Jur. 2d Clerks of Court § 1.

Key Numbers. — Clerks of Courts ⇌ 1; Courts ⇌ 55, 248.

C.J.S. — 14 C.J.S. Clerks of Courts § 1; 21 C.J.S. Courts §§ 140, 465.

78-2-7 to 78-2-10. Repealed.

Repeals. — Laws 1986, ch. 47, § 80 repeals §§ 78-2-7 to 78-2-10, as enacted by Laws 1951, ch. 58, § 1, relating to the bond, office and gen-

eral powers and duties of the clerk and distribution of volumes of reports by the law librarian and the state law library.

78-2-11. Reporter — Deputy clerks — Assistants.

The Supreme Court shall appoint a reporter of its decisions who shall hold office during the pleasure of the court, and may appoint, remove at pleasure, and fix the compensation for such deputy clerks and other assistants as may be necessary for the transaction of the business of the court.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-2-11.

Cross-References. — Salary of reporter, § 67-8-2.

COLLATERAL REFERENCES

Am. Jur. 2d. — 15 Am. Jur. 2d Clerks of Court § 40 et seq.

C.J.S. — 14 C.J.S. Clerks of Courts § 83 et seq.; 21 C.J.S. Courts § 465.

Key Numbers. — Clerks of Courts ⇌ 6; Courts ⇌ 55 to 58, 248.

78-2-12. Postage and office supplies.

Stationery, postage and supplies necessary for the transaction of the business of the Supreme Court, including the printing of the court docket, shall be furnished by the purchasing department or officer of the state, on requisition therefor made through the clerk.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-2-12.

COLLATERAL REFERENCES

C.J.S. — 21 C.J.S. Courts § 465.

A.L.R. — Inherent power of court to compel

appropriation or expenditure of funds for judicial purposes, 59 A.L.R.3d 1129.

Key Numbers. — Courts ⇌ 73, 248.

78-2-13. Bailiffs and assistant librarian.

The court is hereby authorized to appoint and remove at pleasure the necessary bailiffs to attend the court, and to perform such other duties and execute such orders as may be directed or made by the court. The court may also appoint and remove at pleasure an assistant librarian, who shall perform such duties as the court may order or direct.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-2-13.

Cross-References. — Salary of assistant librarian, § 67-8-2.

COLLATERAL REFERENCES

C.J.S. — 21 C.J.S. Courts §§ 140, 465.

Key Numbers. — Courts ⇌ 58, 248.

78-2-14. Sheriffs to attend and serve.

The court may at any time require the attendance and services of any sheriff in the state.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-2-14.

Cross-References. — Powers and duties of sheriffs generally, § 17-22-1 et seq.

COLLATERAL REFERENCES

C.J.S. — 21 C.J.S. Courts § 465.

Key Numbers. — Courts ⇌ 248.

CHAPTER 2a

COURT OF APPEALS

Section

78-2a-1. Creation — Seal.

78-2a-2. Number of judges — Functions —
Filing fees.

Section

78-2a-3. Court of Appeals jurisdiction.

78-2a-4. Review of actions by Supreme Court.

78-2a-5. Location of Court of Appeals.

78-2a-1. Creation — Seal.

There is created a court known as the Court of Appeals. The Court of Appeals is a court of record and shall have a seal.

History: C. 1953, 78-2a-1, enacted by L. 1986, ch. 47, § 44.

78-2a-2. Number of judges — Functions — Filing fees.

(1) The Court of Appeals consists of seven judges. The term of appointment to office as a judge of the Court of Appeals is until the first general election held more than three years after the effective date of the appointment. Thereafter, the term of office of a judge of the Court of Appeals is six years and until a successor is appointed and approved under § 20-1-7.1. The presiding judge of the Court of Appeals shall receive as additional compensation \$1,000 per annum or fraction thereof for the period served.

(2) The Court of Appeals shall sit and render judgment in panels of three judges. Assignment to panels shall be by random rotation of all judges of the Court of Appeals. The Court of Appeals by rule shall provide for the selection of a chair for each panel. The Court of Appeals may not sit en banc.

(3) The judges of the Court of Appeals shall elect a presiding judge from among the members of the court by majority vote of all judges. The term of office of the presiding judge is two years and until a successor is elected. A presiding judge of the Court of Appeals may serve in that office no more than two successive terms. The Court of Appeals may by rule provide for an acting presiding judge to serve in the absence or incapacity of the presiding judge.

(4) The presiding judge may be removed from the office of presiding judge by majority vote of all judges of the Court of Appeals. In addition to the duties of a judge of the Court of Appeals, the presiding judge shall:

(a) administer the rotation and scheduling of panels;

(b) act as liason with the Supreme Court;

(c) call and preside over the meetings of the Court of Appeals;

(d) carry out other duties the Supreme Court by rule may prescribe and as may be prescribed by the judicial council.

(5) Filing fees for the Court of Appeals are the same as for the Supreme Court.

History: C. 1953, 78-2a-2, enacted by L. 1986, ch. 47, § 45.

78-2a-3. Court of Appeals jurisdiction [Effective until January 1, 1988].

(1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary to carry into effect its judgments, orders, and decrees or in aid of its jurisdiction.

(2) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) the final orders and decrees of state and local agencies or appeals from the district court review of them, except the Public Service Commission, State Tax Commission, Board of State Lands, Board of Oil, Gas, and Mining, and the state engineer, notwithstanding any other provision of law;

(b) appeals from the juvenile courts;

(c) appeals from the circuit courts;

(d) interlocutory appeals from any court of record in criminal cases except those involving a charge of a first degree or capital felony;

(e) appeals from district court in criminal cases except those involving a conviction of a first or capital degree felony;

(f) appeals from orders on petitions for extraordinary writs involving a criminal conviction, except those involving a first degree or capital felony;

(g) appeals from district court involving domestic relations cases including, but not limited to, divorce, annulment, property division, child custody, support and visitation, adoption, and paternity; and

(h) cases transferred to the Court of Appeals from the Supreme Court.

(3) The Court of Appeals, upon its own motion only and by the vote of four judges of the court, may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

Court of Appeals jurisdiction [Effective January 1, 1988].

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(e) appeals from district court in criminal cases, except those involving a conviction of a first or capital degree felony;

(f) appeals from orders on petitions for extraordinary writs involving a criminal conviction, except those involving a first degree or capital felony;

(g) appeals from district court involving domestic relations cases including, but not limited to, divorce, annulment, property division, child custody, support and visitation, adoption, and paternity; and

(h) cases transferred to the Court of Appeals from the Supreme Court.

(3) The Court of Appeals, upon its own motion only and by the vote of four judges of the court, may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

(4) The Court of Appeals shall comply with the requirements of Chapter 46b, Title 63, in its review of agency adjudicative proceedings.

History: C. 1953, 78-2a-3, enacted by L. 1986, ch. 47, § 46; 1987, ch. 161, § 304.

Amended effective January 1, 1988. — Laws 1987, ch. 161, § 304 amends this section

effective January 1, 1988. See catchline "Amendment Notes," below.

Amendment Notes. — The 1987 amendment, effective January 1, 1988, added Subsection (4).

78-2a-4. Review of actions by Supreme Court.

Review of the judgments, orders, and decrees of the Court of Appeals shall be by petition for writ of certiorari to the Supreme Court.

History: C. 1953, 78-2a-4, enacted by L. 1986, ch. 47, § 47.

78-2a-5. Location of Court of Appeals.

The Court of Appeals has its principal location in Salt Lake City. The Court of Appeals may perform any of its functions in any location within the state.

History: C. 1953, 78-2a-5, enacted by L. 1986, ch. 47, § 48.

COLLATERAL REFERENCES

A.L.R. — Sufficiency of courtroom facilities as affecting rights of accused, 85 A.L.R.3d 918.

CHAPTER 3 DISTRICT COURTS

Section		Section	
78-3-1.	District judges — Number.		ments from day to day deemed recesses.
78-3-1.5,	78-3-1.6. Repealed.	78-3-9.	Terms to be fixed annually — Clerks to post copy of order.
78-3-2.	Judicial districts.	78-3-10.	Court to be held at times fixed — Exceptions.
78-3-3.	Term of judges — Vacancy.	78-3-11.	Adjournment of regular term — Notice.
78-3-4.	Jurisdiction — Transfer of cases to circuit court — Appeals.	78-3-12.	Disagreement between district judges — Determination.
78-3-5.	Repealed.	78-3-13.	Judge may hold court in any county on request.
78-3-6.	Terms — Three each year at county seat.		
78-3-7.	Terms in counties independent of each other.		
78-3-8.	Courts always open — Adjourn-		