



A PROFESSIONAL CORPORATION

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November 3, 2023

Mayor Daniel M. Olson
Santaquin City
110 South Center Street
Santaquin, UT 84655

Re: Recertification of the Santaquin Justice Court

Dear Mayor Olson:

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

As you are aware, Nielsen and Senior serves as City Attorney and in that capacity represents the City as legal counsel in civil and administrative matters, and also as the prosecutor in criminal matters in the Santaquin Justice Court and in certain criminal matters in Fourth District Court. While the scope of our representation provides additional understanding of the Santaquin Justice Court, it might also be viewed as a conflict of interest in this undertaking. We have advised the City of this potential conflict and understand that the City has waived the same. However, please keep in mind that this opinion addresses the feasibility of the continued operation of the Santaquin Justice Court and not the decision of whether such continued operation is in the best interest of the City, which will be the decision for the City Council after weighing not only the feasibility of continued operation, but also many other factors, including but not limited to the substantial costs involved.

The Santaquin Justice Court has been certified as a Justice Court for many years. It is presently located on the second floor of the Santaquin City Public Safety Building, with a physical and mailing address of 275 West Main Street, Santaquin, Utah 84655. Pursuant to the terms of two separate Interlocal Agreements, this facility is also the location of the Genola Justice Court, and the Goshen Justice Court. Pursuant to additional and separate Interlocal Agreements, the City of Santaquin employs the Justice Court Judge, who has also been appointed by the Genola Town Council and the Goshen Town Council as the Justice Court Judge for the justice

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courts of those respective municipalities. Those same Interlocal Agreements also provide for clerical staff and law enforcement support for those additional justice courts. However, each of these justice courts continues to be operated separately, and the records of each court are kept and maintained separately. This opinion addresses only the Santaquin Justice Court and not the separate justice courts of the Towns of Genola or Goshen.

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

We also understand that the City of Santaquin has appointed the Honorable Eric Jewell as Justice Court Judge for the Santaquin Justice Court. However, this opinion is limited to the recertification of the Santaquin Justice Court and does not concern any issues that may or may not arise concerning the employment or retention of Judge Jewell.

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

Utah Code Ann. § 78A-7-102 authorizes a municipality to create a justice court. The class of the justice court is determined by applying the criteria found in § 78A-7-101(5). Based on our understanding that during the period beginning from June 30, 2022 and ending July 1, 2023, the average number of cases filed each month in the Santaquin Justice Court was 79, the Santaquin Justice Court is designated as a Class III justice court. And that if combined with the total number of cases filed in the Genola Justice Court and the Goshen Justice Court, the total number of cases still falls within the range required for designation as a Class III justice court. Utah Code Ann. § 78A-1-101(5)(c). We do not express any opinion regarding the designation of the Genola Justice Court or the Goshen Justice Court in the event the number of cases in the three justice courts are not combined, or in the event that either the Genola Justice Court, or the Goshen Justice Court is not recertified.

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

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

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

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

- (1) (a) Except for an offense for which the district court has original jurisdiction under Subsection 78A-5-102(8) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.
- (b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:
 - (i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and
 - (ii) class B and C misdemeanor and infraction violations of:
 - (A) Title 23A, Wildlife Resources Act;
 - (B) Title 41, Chapter 1a, Motor Vehicle Act;
 - (C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;
 - (D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;
 - (E) Title 41, Chapter 22, Off-highway Vehicles;
 - (F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;
 - (G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
 - (H) Title 73, Chapter 18b, Water Safety; and
 - (I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.
- (2) Except for an offense for which the district court has exclusive jurisdiction under Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:
 - (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and
 - (b) class B and C misdemeanor and infraction violations of:

- (i) Title 23A, Wildlife Resources Act;
 - (ii) Title 41, Chapter 1a, Motor Vehicle Act;
 - (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;
 - (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;
 - (v) Title 41, Chapter 22, Off-highway Vehicles;
 - (vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;
 - (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
 - (viii) Title 73, Chapter 18b, Water Safety; and
 - (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.
- (3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.
- (b) An offense is committed within the territorial jurisdiction of a justice court if:
- (i) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;
 - (ii) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;
 - (iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;
 - (iv) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;
 - (v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;
 - (vi) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:
 - (A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;
 - (B) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

- (C) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or
 - (D) the offense is committed on or near the boundary of the court's jurisdiction;
 - (vii) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or
 - (viii) jurisdiction is otherwise specifically provided by law.
- (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.
- (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.
- (6) (a) As used in this Subsection (6), "domestic violence offense" means the same as that term is defined in Section 77-36-1.
- (b) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.
- (c) If a justice court receives a notice of transfer from the prosecuting attorney or the defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action to the district court.

Utah Code Ann. § 78A-7-118. Appeals from justice court -- Trial or hearing de novo in district court.

- (1) As used in this section:
- (a) "Restitution" means the same as that term is defined in Section 77-38b-102.
 - (b) "Victim" means the same as that term is defined in Section 77-38b-102.
- (2) In a criminal case, a defendant is entitled to a trial de novo in the district court only if the defendant files a notice of appeal within 28 days after the day on which:
- (a) except as provided in Subsection (5)(a)(ii), the justice court sentences the defendant; or
 - (b) the defendant enters a plea of guilty or no contest in the justice court that is held in abeyance.
- (3) Upon filing a proper notice of appeal, any term of a sentence imposed by the justice court is stayed as provided for in Section 77-20-302 and the Utah Rules of Criminal Procedure.

- (4) If an appeal under Subsection (2) is of a plea entered pursuant to negotiation with the prosecutor, and the defendant did not reserve the right to appeal as part of the plea negotiation, the negotiation is voided by the appeal.
- (5) (a) A defendant convicted and sentenced in the justice court is entitled to a hearing de novo in the district court regarding:
 - (i) an order revoking probation;
 - (ii) a sentence after a determination that a defendant failed to fulfill the terms of a plea in abeyance agreement;
 - (iii) an order denying a motion to withdraw a plea if the plea is being held in abeyance and the motion to withdraw the plea is filed within 28 days after the day on which the plea is entered;
 - (iv) an order for restitution; or
 - (v) an order denying expungement.
- (b) A defendant seeking an appeal under Subsection (5)(a) shall file a notice of appeal within 28 days after the day on which the justice court enters the order or sentence.
- (6) (a) A defendant who has entered into a plea in abeyance in the justice court is entitled to a hearing de novo in the district court on the determination by the justice court as to the amount of restitution owed by the defendant as a part of the plea in abeyance agreement.
- (b) A defendant seeking an appeal under Subsection (6)(a) shall file a notice of appeal within 28 days after the day on which the justice court enters the order for restitution.
- (7) (a) A prosecutor is entitled to a hearing de novo in the district court regarding:
 - (i) a final judgment of dismissal;
 - (ii) an order arresting judgment;
 - (iii) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;
 - (iv) a judgment holding invalid any part of a statute or ordinance;
 - (v) a pretrial order excluding evidence when the prosecutor certifies that exclusion of that evidence prevents continued prosecution of an infraction or class C misdemeanor;
 - (vi) a pretrial order excluding evidence when the prosecutor certifies that exclusion of that evidence impairs continued prosecution of a class B misdemeanor;
 - (vii) an order granting a motion to withdraw a plea of guilty or no contest; or
 - (viii) an order granting an expungement if the expungement was opposed by the prosecution or a victim before the order was entered.

- (b) A prosecutor seeking an appeal under Subsection (7)(a) shall file a notice of appeal within 28 days after the day on which the justice court enters the order or judgment.
- (8) (a) A prosecutor or a victim is entitled to a restitution hearing de novo in the district court regarding restitution if:
 - (i) a request for restitution was made in the justice court; and
 - (ii) the justice court:
 - (A) failed to order the defendant to pay restitution to the victim; or
 - (B) ordered the defendant to pay restitution in an amount less than requested.
- (b) A prosecutor or victim seeking an appeal under Subsection (8)(a) shall file a notice of appeal within 28 days after the day on which the justice court:
 - (i) failed to order the defendant to pay restitution; or
 - (ii) ordered the defendant to pay restitution in an amount less than requested.
- (9) Upon entering a decision in a hearing de novo, the district court shall remand the case to the justice court unless:
 - (a) the decision results in immediate dismissal of the case; or
 - (b) the hearing de novo was on a pretrial order and the parties and the district court agree to have the district court retain jurisdiction.
- (10) The district court shall retain jurisdiction over the case on trial de novo.
- (11) The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.

Utah Code Ann. § 78A-7-120. Disposition of fines.

- (1) (a) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted as follows:
 - (i) 50% to the treasurer of the local government responsible for the court; and
 - (ii) 50% to the treasurer of the local government which prosecutes or which would prosecute the violation.
- (b) An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, and related to justice courts may alter the ratio described in Subsection (1)(a) if the parties agree.
- (2) (a) For violation of Title 23A, Wildlife Resources Act, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the local government responsible for the justice court.

- (b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Outdoor Recreation and 15% to the general fund of the local government responsible for the justice court.
- (c) Fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310 shall be remitted:
 - (i) 20% to the school district or private school that owns or contracts for the use of the school bus; and
 - (ii) 80% in accordance with Subsection (1).
- (3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer and deposited into the General Fund.
- (4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and allocated to the Department of Transportation for class B and class C roads.
- (5) Revenue allocated for class B and class C roads pursuant to Subsection (4) or Subsection (7) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.
- (6) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:
 - (i) 60% to the state treasurer to be deposited into the Transportation Fund; and
 - (ii) 40% in accordance with Subsection (1).
 - (b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:
 - (i) 50% to the state treasurer to be deposited into the Transportation Fund; and
 - (ii) 50% in accordance with Subsection (1).
- (7) (a) Revenue from traffic fines may not exceed 25% of a local government's total general fund revenue for a fiscal year.
 - (b) No later than 30 days after the day on which a local government's fiscal year ends, a local government that receives traffic fine revenue shall:
 - (i) for the immediately preceding fiscal year, determine the amount of traffic fine revenue that exceeds the amount described in Subsection (7)(a); and
 - (ii) transfer the amount calculated under Subsection (7)(b)(i) to the state treasurer to be allocated to the Department of Transportation for class B and class C roads.

Utah Code Ann. § 78A-7-121. Funds collected -- Deposits and reports -- Special account -- Accounting.

- (1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of \$60 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations.
- (2) The security surcharge shall be collected and distributed pro rata with any fine collected. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.
- (3) Twenty-eight dollars of the security surcharge shall be remitted to the state treasurer and distributed to the Court Security Account created in Section 78A-2-602.
- (4) Thirty-two dollars of the security surcharge shall be allocated as follows:
 - (a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and
 - (b) 80% shall be remitted to the state treasurer to be distributed as follows:
 - (i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located;
 - (ii) 25% to the Court Security Account created in Section 78A-2-602; and
 - (iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78A-7-301.
- (5) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Utah Code Ann. § 78A-7-122. Security surcharge -- Application -- Deposit in restricted accounts.

- (1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of \$60 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations.
- (2) The security surcharge shall be collected and distributed pro rata with any fine collected. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.
- (3) Twenty-eight dollars of the security surcharge shall be remitted to the state treasurer and distributed to the Court Security Account created in Section 78A-2-602.
- (4) Thirty-two dollars of the security surcharge shall be allocated as follows:
 - (a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and

- (b) 80% shall be remitted to the state treasurer to be distributed as follows:
 - (i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located;
 - (ii) 25% to the Court Security Account created in Section 78A-2-602; and
 - (iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78A-7-301.
- (5) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Utah Code Ann. § 78A-7-123. Dissolution of justice courts.

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

Utah Code Ann. § 78A-7-201. Justice court judge eligibility – Mandatory retirement.

- (1) A justice court judge shall be:
 - (a) a citizen of the United States;

- (b) 25 years old or older;
 - (c) a resident of Utah for at least three years immediately preceding the judge's appointment;
 - (d) upon appointment or within a reasonable time after appointment, a resident of the county, an adjacent county, or the judicial district in which the justice court is located; and
 - (e) a qualified voter of the county in which the judge resides.
- (2) (a) On and after May 3, 2023, a justice court judge shall have a degree from a law school that makes one eligible to apply for admission to a bar in any state.
- (b) A justice court judge holding office on May 3, 2023, who does not meet the qualification described in Subsection (2)(a) may continue in office until the judge resigns, retires, is not retained in a retention election, or is removed from office.
- (3) Notwithstanding Subsection (2), a justice court judge is not required to be admitted to practice law in the state as a qualification to hold office.
- (4) A justice court judge shall be a person who has demonstrated maturity of judgment, integrity, and the ability to understand and apply appropriate law with impartiality.
- (5) A justice court judge shall retire upon attaining the age of 75 years.
- (6) If there are not at least two applicants for a justice court judge position who meet the requirement of Subsection (2)(a), the justice court nominating commission may:
- (a) re-advertise the position; and
 - (b) accept applications from individuals who do not meet the requirement of Subsection (2)(a).

Utah Code Ann. § 78A-7-202. Justice court judges to be appointed -- Procedure.

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

- (B) the city manager, in the council-manager form of government described in Subsection 10-3b-103(7); and
- (iii) for a metro township, the chair of the metro township council.
- (b) "Local legislative body" means:
 - (i) for a county, the county commission or county council; and
 - (ii) for a city or town, the council of the city or town.
- (2) (a) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position.
- (b) The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.
- (c) Membership of the justice court nominating commission shall be as follows:
 - (i) one member appointed by:
 - (A) the county commission if the county has a county commission form of government; or
 - (B) the county executive if the county has an executive-council form of government;
 - (ii) one member appointed by the municipalities in the counties as follows:
 - (A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or
 - (B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality and the chairs of each metro township in the county;
 - (iii) one member appointed by the county bar association; and
 - (iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.
- (d) (i) If there is no county bar association, the member in Subsection (2)(c)(iii) shall be appointed by the regional bar association.
- (ii) If no regional bar association exists, the state bar association shall make the appointment.
- (e) Members appointed under Subsections (2)(c)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

- (f) (i) Except as provided in Subsection (2)(f)(ii), the nominating commission shall submit at least three names to the appointing authority of the jurisdiction expected to be served by the judge.
- (ii) If there are fewer than three applicants for a justice court vacancy, the nominating commission shall submit all qualified applicants to the appointing authority of the jurisdiction expected to be served by the judge.
- (iii) The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.
- (g) (i) The state court administrator shall provide staff to the commission.
- (ii) The Judicial Council shall establish rules and procedures for the conduct of the commission.
- (3) (a) A judicial vacancy for a justice court shall be announced:
 - (i) as an employment opportunity on the Utah Courts' website;
 - (ii) in an email to the members of the Utah State Bar; and
 - (iii) for the justice court's jurisdiction, as a class A notice under Section 63G-30-102, for at least 30 days.
- (b) A judicial vacancy for a justice court may also be advertised through other appropriate means.
- (4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.
- (5) (a) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council.
- (b) Upon completion of the orientation seminar described in Subsection (5)(a), the Judicial Council shall certify the justice court judge as qualified to hold office.
- (6) (a) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council.
- (b) A justice court judge may not perform judicial duties until certified by the Judicial Council.

Utah Code Ann. § 78A-7-203. Term of office for justice court judge -- Retention -- Reduction in force -- Addition of a justice court judge position.

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

- (2) Upon the expiration of a justice court judge's term of office, the judge shall be subject to an unopposed retention election in accordance with the procedures set forth in Section 20A-12-201:
 - (a) in the county or counties in which the court to which the judge is appointed is located if the judge is a county justice court judge or a municipal justice court judge in a town or city of the fourth or fifth class; or
 - (b) in the municipality in which the court to which the judge is appointed is located if the judge is a municipal justice court judge and Subsection (2)(a) does not apply.
- (3) Before each retention election, each justice court judge shall be evaluated in accordance with the performance evaluation program established in Chapter 12, Judicial Performance Evaluation Commission Act.
- (4) A municipality or county that has more than one justice court judge and the weighted caseload per judge is lower than 0.60 as determined by the Administrative Office of the Courts may, at the municipality's or county's discretion and at the end of a judge's term of office, initiate a reduction in force and reduce, lay off, terminate, or eliminate a judge's position in accordance with the municipality's or county's employment policies.
- (5) A municipality or county may only add a new justice court judge position if the Judicial Council, after considering the caseload of the court, approves creation of the position.

Utah Code Ann. § 78A-7-204. Offices of justice court judges.

- (1) Justice court judges holding office in:
 - (a) county precincts are county justice court judges; and
 - (b) cities or towns are municipal justice court judges.
- (2) The county legislative body may establish a single precinct or divide the county into multiple precincts to create county justice courts for public convenience.
- (3)
 - (a) The governing body may create as many judicial positions as are required for the efficient administration of a justice court.
 - (b) If more than one judge is assigned to a court, all filings within that court shall be assigned to the judges at random unless the governing body has been authorized to create specialized judicial calendars to serve the interests of justice.

Utah Code Ann. § 78A-7-205. Required training -- Expenses -- Failure to attend.

- (1) A justice court judge shall meet the continuing education requirements of the Judicial Council.

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

Utah Code Ann. § 78A-7-206. Determination of compensation for justice court judge -- Limits on secondary employment -- Prohibition on holding political or elected office -- Penalties.

- (1) Every justice court judge shall be paid a fixed compensation determined by the governing body of the respective municipality or county.
 - (a) The governing body of the municipality or county may not set a full-time justice court judge's salary at less than 70% nor more than 90% of a district court judge's salary.
 - (b) The governing body of the municipality or county shall set a part-time justice court judge's salary as follows:
 - (i) The governing body shall first determine the full-time salary range outlined in Subsection (1)(a).
 - (ii) The caseload of a part-time judge shall be determined by the office of the state court administrator and expressed as a percentage of the caseload of a full-time judge.
 - (iii) The judge's salary shall then be determined by applying the percentage determined in Subsection (1)(b)(ii) against the salary range determined in Subsection (1)(a).
 - (c) A justice court judge shall receive an annual salary adjustment at least equal to the average salary adjustment for all county or municipal employees for the jurisdiction served by the judge.
 - (d) Notwithstanding Subsection (1)(c), a justice court judge may not receive a salary greater than 90% of the salary of a district court judge.
 - (e) A justice court judge employed by more than one entity as a justice court judge may not receive a total salary for service as a justice court judge greater than the salary of a district court judge.
 - (f) A salary described in this Subsection (1) does not include additional compensation provided for a presiding judge or associate presiding judge of a justice court under Section 78A-7-209.5.
- (2) A justice court judge may not appear as an attorney in any:
 - (a) justice court;
 - (b) criminal matter in any federal, state, or local court; or

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

Utah Code Ann. § 78A-7-208. Temporary justice court judge.

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

Utah Code Ann. § 78A-7-210. Justice court judge administrative responsibilities.

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

Utah Code Ann. § 78A-7-212. Place of holding court.

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

Utah Code Ann. § 78A-7-213. Trial facilities -- Hours of business.

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

Utah Code Ann. § 78A-7-215. Monthly reports to court administrator and governing body.

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

Utah Code Ann. § 78A-8-102. Small claims -- Defined -- Counsel not necessary -- Removal from district court -- Deferring multiple claims of one plaintiff -- Supreme Court to govern procedures.

- (1) A small claims action is a civil action:
 - (a) for the recovery of money when:

- (i) the amount claimed does not exceed:
 - (A) on or after May 4, 2022, through December 31, 2024, \$15,000 including attorney fees but exclusive of court costs and interest;
 - (B) on or after January 1, 2025, through December 31, 2029, \$20,000 including attorney fees but exclusive of court costs and interest; and
 - (C) on or after January 1, 2030, \$25,000 including attorney fees but exclusive of court costs and interest; and
 - (ii) the defendant resides or the action of indebtedness was incurred within the jurisdiction of the court in which the action is to be maintained; or
 - (b) involving interpleader under Rule 22 of the Utah Rules of Civil Procedure, in which the amount claimed does not exceed the amount described in Subsection (1)(a)(i).
- (2) (a) A defendant in an action filed in the district court that meets the requirement of Subsection (1)(a)(i) may remove, if agreed to by the plaintiff, the action to a small claims court within the same district by:
- (i) giving notice, including the small claims filing number, to the district court of removal during the time afforded for a responsive pleading; and
 - (ii) paying the applicable small claims filing fee.
- (b) A filing fee may not be charged to a plaintiff to appeal a judgment on an action removed under Subsection (2)(a) to the district court where the action was originally filed.
- (3) The judgment in a small claims action may not exceed the amount described in Subsection (1)(a)(i).
- (4) A counter claim may be maintained in a small claims action if the counter claim arises out of the transaction or occurrence which is the subject matter of the plaintiff's claim. A counter claim may not be raised for the first time in the trial de novo of the small claims action.
- (5) (a) A claim involving property damage from a motor vehicle accident may be maintained in a small claims action, and any removal or appeal of the small claims action, without limiting the ability of a plaintiff to make a claim for bodily injury against the same defendant in a separate legal action.
- (b) In the event that a property damage claim is brought as a small claims action:
- (i) a liability decision in an original small claims action or appeal of the original small claims action is not binding in a separate legal action for bodily injury; and
 - (ii) an additional property damage claim may not be brought in a separate legal action for bodily injury.

- (6) (a) With or without counsel, persons or corporations may litigate actions on behalf of themselves:
 - (i) in person; or
 - (ii) through authorized employees.
- (b) A person or corporation may be represented in an action by an individual who is not an employee of the person or corporation and is not licensed to practice law only in accordance with the Utah Rules of Small Claims Procedure as made by the Supreme Court.
- (7) (a) If a person or corporation other than a municipality or a political subdivision of the state files multiple small claims in any one court, the clerk or judge of the court may remove all but the initial claim from the court's calendar in order to dispose of all other small claims matters.
- (b) A claim so removed shall be rescheduled as permitted by the court's calendar.
- (8) A small claims matter shall be managed in accordance with simplified rules of procedure and evidence made by the Supreme Court.

Utah Code Ann. § 78A-8-103. Assignee may not file claim.

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

Utah Code Ann. § 78A-8-104. Object of small claims -- Attachment, garnishment, and execution.

- (1) The hearing in a small claims action has the sole object of dispensing speedy justice between the parties. The record of small claims proceedings shall be as provided by rule of the Judicial Council.
- (2) Attachment, garnishment, and execution may issue after judgment as prescribed by law, upon the payment of the fees required for those services.

Utah Code Ann. § 78A-8-105. Civil filing fees.

- (1) Except as provided in this section, the fees for a small claims action in justice court shall be the same as provided in Section 78A-2-301.
- (2) Fees collected in small claims actions filed in municipal justice court are remitted to the municipal treasurer. Fees collected in small claims actions filed in a county justice court are remitted to the county treasurer.
- (3) The fee in the justice court for filing a notice of appeal for trial de novo in a court of record is \$10. The fee covers all services of the justice court on appeal but does not satisfy the trial de novo filing fee in the court of record.

Utah Code Ann. § 78A-8-106. Appeals -- Who may take and jurisdiction.

- (1) Either party may appeal the judgment in a small claims action to the district court of the county by filing a notice of appeal in the original trial court within 28 days of entry of the judgment. If the judgment in a small claims action is entered by a judge or judge pro tempore of the district court, the notice of appeal shall be filed with the district court.
- (2) The appeal is a trial de novo and shall be tried in accordance with the procedures of small claims actions. A record of the trial shall be maintained. The trial de novo may not be heard by a judge pro tempore appointed under Section 78A-8-108. The decision of the trial de novo may not be appealed unless the court rules on the constitutionality of a statute or ordinance.

Utah Code Ann. § 78A-8-107. Costs.

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

Utah Code Ann. § 78A-8-108. Evening hours -- Judges pro tempore.

- (1) The district or justice court may request that the Supreme Court appoint a member of the Utah State Bar in good standing, with the member's consent, as judge pro tempore to hear and determine small claims at times, including evening sessions, to be set by the court.
- (2) After being duly sworn, judges pro tempore shall:
 - (a) serve voluntarily and without compensation at the request of the court; and
 - (b) be extended the same immunities, and have the same powers with respect to matters within the jurisdiction of the small claims court as exercised by a regular judge.

Utah Code Ann. § 78A-8-109. Report to Judiciary Interim Committee.

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

Utah Code Ann. § 78B-1-103. Jurors selected from random cross section -- Opportunity and obligation to serve.

- (1) It is the policy of this state that:
 - (a) persons selected for jury service be selected at random from a fair cross section of the population of the county;
 - (b) all qualified citizens have the opportunity in accordance with this chapter to be considered for service; and
 - (c) all qualified citizens are obligated to serve when summoned, unless excused.

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

Utah Code Ann. § 78B-1-111. Food allowance for jurors -- Sequestration costs.

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

Utah Code Ann. § 78B-1-112. Jurors -- Preservation of records.

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

Utah Code Ann. § 78B-1-113. Jury not selected in conformity with chapter -- Procedure to challenge -- Relief available -- Exclusive remedy.

- (1) Within seven days after the moving party discovered, or by the exercise of diligence could have discovered the grounds therefore, and in any event before the trial jury is sworn to try the case, a party may move to stay the proceedings or to quash an indictment, or for other appropriate relief, on the ground of substantial failure to comply with this act in selecting a grand or trial jury.
- (2) Upon motion filed under this section containing a sworn statement of acts which if true would constitute a substantial failure to comply with this act, the moving party may present testimony of the county clerk, the clerk of the court, any relevant records and papers not public or otherwise available used by the jury commission or the clerk, and any other relevant evidence. If the court determines that in selecting either a grand or a trial jury there has been a substantial failure to comply with this act and it appears that actual and substantial injustice and prejudice has resulted or will result to a party in consequence of the failure, the court shall stay the proceedings pending the selection of the jury in conformity with this act, quash an indictment, or grant other appropriate relief.
- (3) The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the state, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this act.

Utah Code Ann. § 78B-1-114. Jury fee assessments -- Payment.

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

- (a) a jury demand has been made and is later withdrawn within the 48 hours preceding the commencement of the trial; or
 - (b) the case is settled or continued within 48 hours of trial without just cause for not having settled or continued the case prior to the 48-hour period.
- (2) The party assessed shall make payment to the clerk of the court within a prescribed period. Payment shall be enforced by contempt proceedings.
- (3) The court clerk shall transfer the assessment to the state treasury, or the auditor of the city or county incurring the juror expenses.

Utah Code Ann. § 78B-1-117(3). Jurors and Witnesses –State payment for jurors and subpoenaed persons -- Appropriations and costs -- Expenses in justice court.

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

Utah Code Ann. § 78B-1-119. Jurors and Witnesses -- Fees and mileage.

- (1) Every juror and witness legally required or in good faith requested to attend a trial court of record or not of record or a grand jury is entitled to:
- (a) \$18.50 for the first day of attendance and \$49 per day for each subsequent day of attendance; and
 - (b) if traveling more than 50 miles, \$1 for each four miles in excess of 50 miles actually and necessarily traveled in going only, regardless of county lines.
- (2) Persons in the custody of a penal institution upon conviction of a criminal offense are not entitled to a witness fee.
- (3) A witness attending from outside the state in a civil case is allowed mileage at the rate of 25 cents per mile and is taxed for the distance actually and necessarily traveled inside the state in going only.
- (4) If the witness is attending from outside the state in a criminal case, the state shall reimburse the witness under Section 77-21-3.
- (5) A prosecution witness or a witness subpoenaed by an indigent defendant attending from outside the county but within the state may receive reimbursement for necessary lodging and meal expenses under rule of the Judicial Council.
- (6) A witness subpoenaed to testify in court proceedings in a civil action shall receive reimbursement for necessary and reasonable parking expenses from the attorney issuing the subpoena under rule of the Judicial Council or Supreme Court.

Utah Code Ann. § 78B-1-120. Jurors and witnesses -- Fees in criminal cases -- Daily report of attendance.

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

Utah Code Ann. § 78B-1-122. Jurors and witnesses -- Justice court judge -- Certificate of attendance -- Records and reporting.

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

- (1) A justice court judge shall provide to each person who has served as a juror or as a witness in a criminal case when summoned for the prosecution by the county or city attorney, or for the defense by order of the court, a numbered certificate that contains:
 - (a) the name of the juror or witness;
 - (b) the title of the proceeding;
 - (c) the number of days in attendance;
 - (d) the number of miles traveled if the witness has traveled more than 50 miles in going only;
and
 - (e) the amount due.
- (2) The certificate shall be presented to the county or city attorney. When certified as being correct, it shall be presented to the county or city auditor and when allowed by the county executive or town council, the auditor shall draw a warrant for it on the treasurer.
- (3) Every justice court judge shall keep a record of all certificates issued. The record shall show all of the facts stated in each certificate. On the first Monday of each month a detailed statement of all certificates issued shall be filed with the treasurer.

Utah Code Ann. § 78B-1-136. Witnesses -- Rights.

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

Utah Code Ann. § 78B-1-138. Witnesses -- Exempt from arrest in civil action.

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

Utah Code Ann. § 78B-1-139. Witnesses – Unlawful arrest – Void – Damages recoverable.

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

Utah Code Ann. § 78B-1-140. Liability of officer making arrest.

- (1) An officer is not liable for making the arrest in ignorance of the facts creating the exemption, but is liable for any subsequent detention of the witness, if the witness claims the exemption and makes an affidavit stating:
 - (a) he has been served with a subpoena to attend as a witness before a court, officer or other person, specifying the same, the place of attendance and the action or proceeding in which the subpoena was issued;
 - (b) he has not been served by his own procurement, with the intention of avoiding an arrest; and
 - (c) he is at the time going to the place of attendance, returning therefrom, or remaining there in obedience to the subpoena.
- (2) The affidavit may be taken by the officer, and exonerates him from liability for discharging the witness when arrested.

Utah Code Ann. § 78B-1-141. Witnesses – Discharge when unlawfully arrested.

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

Utah Code Ann. § 78B-1-146. Witnesses -- Interpreters -- Subpoena -- Contempt -- Costs.

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

Utah Code Ann. § 78B-1-147. Witnesses – Fees in civil cases – How paid – Taxed as costs.

- (1) The fees and compensation of witnesses in all civil causes shall be paid by the party who causes the witnesses to attend. A person is not obliged to attend court in a civil cause when subpoenaed unless the person's:
 - (a) fees for one day's attendance are tendered or paid on demand; or
 - (b) fees for attendance for each day are tendered or paid on demand.
- (2) The fees of witnesses paid in civil causes may be taxed as costs against the losing party.

Utah Code Ann. § 78B-1-148. Witnesses -- Only one fee per day allowed.

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

Utah Code Ann. § 78B-1-149. Witnesses -- Officials subpoenaed not entitled to fee or per diem -- Exception.

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

Utah Code Ann. § 78B-1-150. Witnesses -- When criminal defense witness may be called at expense of state.

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

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

Utah Code Ann. § 78B-1-202. Proceedings at which interpreter is to be provided for deaf or hard of hearing.

- (1) If a deaf or hard of hearing person is a party or witness at any stage of any judicial or quasi-judicial proceeding in this state or in its political subdivisions, including civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a deaf or hard of hearing person may be subjected to confinement or

criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings to the deaf or hard of hearing person and to interpret the deaf or hard of hearing person's testimony. If the deaf or hard of hearing person does not understand sign language, the appointing authority shall take necessary steps to ensure that the deaf or hard of hearing person may effectively and accurately communicate in the proceeding.

- (2) If a juvenile whose parent or parents are deaf or hard of hearing is brought before a court for any reason whatsoever, the court shall appoint and pay for a qualified interpreter to interpret the proceedings to the deaf or hard of hearing parent and to interpret the deaf or hard of hearing parent's testimony. If the deaf or hard of hearing parent or parents do not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that the deaf or hard of hearing parent may effectively and accurately communicate in the proceeding.
- (3) In any hearing, proceeding, or other program or activity of any department, board, licensing authority, commission, or administrative agency of the state or of its political subdivisions, the appointing authority shall appoint and pay for a qualified interpreter for the deaf or hard of hearing participants if the interpreter is not otherwise compensated for those services. If the deaf or hard of hearing participants do not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that the deaf or hard of hearing participant may effectively and accurately communicate in the proceeding.
- (4) If a deaf or hard of hearing person is a witness before any legislative committee or subcommittee, or legislative research or interim committee or subcommittee or commission authorized by the state Legislature or by the legislative body of any political subdivision of the state, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings to the deaf or hard of hearing witness and to interpret the deaf or hard of hearing witness's testimony. If the deaf or hard of hearing witness does not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that the deaf or hard of hearing witness may effectively and accurately communicate in the proceeding.
- (5) If it is the policy and practice of a court of this state or of its political subdivisions to appoint counsel for indigent people, the appointing authority shall appoint and pay for a qualified interpreter or other necessary services for deaf or hard of hearing, indigent people to assist in communication with counsel in all phases of the preparation and presentation of the case.
- (6) If a deaf or hard of hearing person is involved in administrative, legislative, or judicial proceedings, the appointing authority shall recognize that family relationship between the particular deaf or hard of hearing person and an interpreter may constitute a possible conflict of interest and select a qualified interpreter who will be impartial in the proceedings.

Utah Code Ann. § 78B-1-203. Effectiveness of interpreter determined.

- (1) Before appointing an interpreter, the appointing authority shall make a preliminary determination, on the basis of the proficiency level established by the Utah State Office of

Rehabilitation created in Section 35A-1-202 and on the basis of the deaf or hard of hearing person's testimony, that the interpreter is able to accurately communicate with and translate information to and from the hearing-impaired person involved.

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

Utah Code Ann. § 78B-1-204. Appointment of more qualified interpreter.

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

Utah Code Ann. § 78B-1-205. Readiness of interpreter prerequisite to commencement of proceeding.

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

Utah Code Ann. § 78B-1-206. List of qualified interpreters -- Use -- Appointment of another.

- (1) The Utah State Office of Rehabilitation created in Section 35A-1-202 shall establish, maintain, update, and distribute a list of qualified interpreters.
- (2) (a) When an interpreter is required under this part, the appointing authority shall use one of the interpreters on the list provided by the Utah State Office of Rehabilitation.
(b) If none of the listed interpreters are available or are able to provide effective interpreting with the particular deaf or hard of hearing person, then the appointing authority shall appoint another qualified interpreter who is able to accurately and simultaneously communicate with and translate information to and from the particular deaf or hard of hearing person involved.

Utah Code Ann. § 78B-1-207. Oath of interpreter.

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

Utah Code Ann. § 78B-1-208. Compensation of interpreter.

- (1) An interpreter appointed under this part is entitled to a reasonable fee for his or her services, including waiting time and reimbursement for necessary travel and subsistence expenses.
- (2) The fee shall be based on a fee schedule for interpreters recommended by the Utah State Office of Rehabilitation created in Section 35A-1-202 or on prevailing market rates.

- (3) Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for state employees generally.
- (4) Compensation for interpreter services shall be paid by the appointing authority if the interpreter is not otherwise compensated for those services.

Utah Code Ann. § 78B-1-209. Waiver of right to interpreter.

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

Utah Code Ann. § 78B-1-210. Privileged communications.

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

Utah Code Ann. § 78B-1-211. Video recording of testimony of deaf or hard of hearing person.

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

In addition to the statutory requirements cited above, the Judicial Council has adopted Rules of Judicial Administration governing the operation of justice courts. Rule 9-102, Rule 9-103, Rule 9-104, Rule 9-105, Rule 9-106, Rule 9-107, and Appendix B, Justice Court Standards For Recertification, are some, but not all of the rules that affect the operation of the Justice Courts and are attached hereto as Exhibit A and incorporated herein by reference.

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

This opinion is strictly limited to those specific items mentioned here and above, and no opinion is expressed as to any other matter or matters irrespective of how closely they may be

Mayor Daniel M. Olson
City of Santaquin
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related to any matter mentioned herein. This opinion is solely for the use of the City of Santaquin with regard to the recertification of the Santaquin Justice Court and not with regard to any other matter or transaction, and the opinions expressed herein are only valid as of the date of this opinion.

The effective date of this opinion is November 3, 2023.

Very truly yours,

NIELSEN & SENIOR

A handwritten signature in dark ink, appearing to read "Brett B. Rich", written over the firm name.

Brett B. Rich

EXHIBIT A