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**Admitted Pro Hac Vice*

**IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

LEAGUE OF WOMEN VOTERS OF UTAH,
MORMON WOMEN FOR ETHICAL
GOVERNMENT, STEFANIE CONDIE,
MALCOLM REID, VICTORIA REID,
WENDY MARTIN, ELEANOR
SUNDWALL, and JACK MARKMAN,

Plaintiffs,
v.

UTAH STATE LEGISLATURE, UTAH
LEGISLATIVE REDISTRICTING
COMMITTEE; SENATOR SCOTT
SANDALL, in his official capacity;
REPRESENTATIVE MIKE SCHULTZ, in his
official capacity; SENATOR J. STUART
ADAMS, in his official capacity; and
LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

**PLAINTIFFS' FIFTH
SUPPLEMENTAL
COMPLAINT**

Case No. 220901712

Honorable Dianna Gibson

Pursuant to Rule 15(d) of the Utah Rules of Civil Procedure, Plaintiffs file this Fifth Supplemental Complaint against Defendants setting forth events that occurred after the filing of this action and pleading additional claims based on those events. This Fifth Supplemental Complaint is filed in addition to, not in replacement of, Plaintiffs' First Amended Complaint and Plaintiffs' First, Second, and Third Supplemental Complaints. Plaintiffs' Fourth Supplemental Complaint was previously withdrawn. Plaintiffs allege as follows:

INTRODUCTION

1. On February 13, 2026, the Utah Legislature passed and the Governor signed H.B. 392, attached as Exhibit 1, which creates a unilateral and arbitrary power for government litigants—and *only* government litigants—to determine whether they wish their case to remain before a single district judge or be transferred to a panel of three district judges. H.B. 392 creates no standards or guidelines for when a case will be transferred to a three-judge panel but rather leaves it to the sole discretion of the Governor, Attorney General, or Legislature. If the government likes the district judge that was drawn in a case, it can keep the matter before that single judge regardless of the statewide importance or scope of the case. If it dislikes the assigned judge, it can unilaterally decide to transfer the case to a three-judge panel.

2. Even worse, the Legislature purported to make the government's decision to file a notice convening a three-judge panel under H.B. 392 immune from and not subject to challenge or judicial review.

3. The same day, the Legislature passed S.J.R. 5, attached as Exhibit 2, amending the Rules of Civil Procedure to allow the government 45 days after (1) the case commences, (2) the complaint is amended, or (3) February 13, 2026 (for cases pending in the district court as of that date) to file a notice convening a three-judge panel. S.J.R. 5 purports to preclude the district judge

to which the case was assigned from taking any further steps in the case once a notice is filed, regardless of the pendency of any emergency matter or the posture of the case.

4. This violates the Utah Constitution in several ways. *First*, Article VIII constitutionally creates district courts, and the text and history show that the original public meaning of “district court” is of a single judge presiding over a case, not a panel of district judges. *Second*, the unilateral and arbitrary authority H.B. 392 vests in the government—and not equally in its opposing litigant—to demand a three-judge panel, and the absence of any standards or guidelines to prevent arbitrary or abusive litigation practices, violates the Uniform Operations Clause (Article I, Section 24), the prohibition on special laws (Article VI, Section 26), and the Open Courts Clause (Article I, Section 11). *Third*, by purporting to shield the government’s decision to convene a three-judge panel from judicial review, H.B. 392 violates the Due Process (Article I, Section 7) and Open Courts (Article I, Section 11) Clauses.

5. The judiciary is a co-equal and separate branch of government. While the Utah Constitution vests the Legislature with certain powers to regulate the conduct and structure of the judiciary, it does not allow it to redefine by statute, rather than by constitutional amendment, the very meaning of constitutionally created courts. Nor does it permit the Legislature to enact statutes that treat certain litigants unequally from others, privilege the government over others, or allow arbitrary government action.

PARTIES

6. The League of Women Voters of Utah (“LWVUT”), Mormon Women for Ethical Government (“MWEG”), Stefanie Condie, Wendy Martin, Malcolm Reid, Victoria Reid, Jack Markman, and Eleanor Sundwall (collectively, “Plaintiffs”) have been litigating this case in this Court since it was filed nearly four years ago. The proceedings in this Court are not final, though

Plaintiffs won a preliminary injunction against S.B. 1011 and Map C on November 10, 2025, following an evidentiary hearing on October 23-24, 2025. Those matters remain pending for final resolution in this case. Plaintiffs have a vested right, under Proposition 4, *see* Utah Code § 20A-19-301, to have this lawsuit adjudicated by a “court of competent jurisdiction.” Moreover, like all litigants, Plaintiffs have a right to have their case heard by a constitutionally composed court. Plaintiffs are injured by the case being transferred to an unlawfully composed court. Plaintiffs are injured by the disruption and delay that will accompany the transfer of this case, with its large and technical evidentiary record, to judges unfamiliar with the case and who were not present to observe witness demeanor and credibility at the October 23-24, 2025 evidentiary hearing. Plaintiffs are injured by not having equal power to determine the composition of the district court that decides its case and by lacking up-front knowledge of any standards that determine whether their case will be transferred to a three-judge panel. Moreover, the risk that the three-judge court will ultimately be held unconstitutional by the Utah Supreme Court—and thus any litigation that proceeds before it will be void and/or vacated—injures Plaintiffs by causing delay in the ultimate resolution of this case.

7. Defendants Utah State Legislature, Utah Legislative Redistricting Committee, Senator Scott Sandall, Representative Mike Schultz, Senator J. Stuart Adams, and Lieutenant Governor Deidre Henderson—all of whom are sued in their official capacities—are state officials on whose behalf a notice to convene a three-judge panel may be filed under H.B. 392.

SUPPLEMENTAL FACTUAL ALLEGATIONS

8. After the October 23-24, 2025 evidentiary hearing concluded in this case, Speaker Mike Schultz issued a statement objecting that, *inter alia*, this case was being heard by “one

unelected judge.”¹ Shortly after this Court issued its November 10, 2025 order, Senate President J. Stuart Adams and Speaker Mike Schultz issued a statement objecting that a “single unelected judge” issued the ruling. Rep. Candice Pierucci, one of the Legislative Redistricting Committee co-chairs, likewise objected that “one unelected judge” issued the ruling.²

9. On February 13, 2026, the Utah Legislature passed and the Governor immediately signed H.B. 392, which enacts Utah Code 78A-5-102.7.³ Because H.B. 392 passed both chambers by over two-thirds vote, it took effect upon the Governor’s signature.

10. H.B. 392 applies to all civil actions brought in the district court in which a state entity, or a state official in the state official’s official capacity, is a party to the action. Utah Code § 78A-5-102.7(2)(a). It allows the Attorney General, the Governor, or the Legislature to “file a notice in the district court that a panel of three district court judges must be convened to hear and decide the civil action.” *Id.*

11. H.B. 392 provides that this notice “may not be challenged by any party” and “is not subject to judicial review.” Utah Code § 78A-5-102.7(2)(b)(i)-(ii). The “panel of three district court judges shall hear and decide, by majority decision, the civil action.” Utah Code § 78A-5-102.7(3)(a). Each judge, randomly selected, must come from a different judicial district, and the presiding officer of the Judicial Council selects a chief judge of the panel. Utah Code § 78A-5-102.7(3)(b)(i)-(ii) & (4)(a).⁴

¹ Utah Legislature, Speaker Mike Schultz Statement (Oct. 27, 2025).

² M.J. Jewkes, Lindsay Aerts, ABC 4 (Nov. 11, 2025), <https://www.abc4.com/news/politics/inside-utah-politics/leaders-judge-gibson-redistricting/>.

³ Ex. 1; *see also* Utah Legislature, H.B. 392, 2026 Gen. Sess. (Utah 2026), <https://le.utah.gov/~2026/bills/static/HB0392.html>.

⁴ Notably, another bill pending before the Legislature, S.B. 308, would collapse the First and Second Districts into the Third District, rebranded as the “Northern Judicial District,” adding Box Elder County, Cache County, Rich County, Weber County, Davis County, and Morgan County.

12. The chief judge “shall conduct all proceedings in an action before a panel,” except that “[a] panel shall sit en banc for a trial, an order for an injunction or temporary restraining order, or any motion that would dispose of the action or any claim or defense in the action.” Utah Code § 78A-5-102.7(4)(b)-(c). A judge may concur or dissent. Utah Code § 78A-5-102.7(4)(d).

13. Venue requirements and requirements to file suit in particular counties or districts do not apply to actions before a panel. Utah Code § 78A-5-102.7(5). H.B. 392 directs the Judicial Council, before March 7, 2026, to establish by rule a process for random assignment of judges, reassignment for disqualification, recusal, or the exercise of change of judge rights, and to maintain a list of judges qualified to serve that contains at least 50% of the district judges from each district. Utah Code § 78A-5-102.7(6)(a)-(c).

14. The same day it enacted H.B. 392, the Legislature adopted S.J.R. 5, which amended Rule 42(d) of the Utah Rules of Civil Procedure.⁵ It allows the Attorney General, Governor, or the Legislature to file a notice convening a three-judge district court if that notice is filed within 45 days after (1) the action is commenced, (2) an amendment to the complaint is filed, or (3) “February 13, 2026, if the action is pending in the district court on February 13, 2026.” *Id.*; *see also* Utah. R. Civ. P. 42(e)(1) (2026).

15. The district judge in whose court the action was filed must notify the Judicial Council upon receipt of a notice to convene a three-judge court, must transfer the case, and “may not sever any matter from the action or take any further action.” *Id.* S.J.R. 5 likewise amended

See Utah Legislature, S.B. 308, 2026 Gen. Sess. (Utah 2026), <https://le.utah.gov/~2026/bills/static/SB0308.html>. It appears some in the Legislature now wish to gerrymander judicial districts too.

⁵ Ex. 2; *see also* Utah Legislature, S.J.R. 5 (S2), 2026 Gen. Sess. (Utah 2026), <https://le.utah.gov/~2026/bills/static/SJR005.html>.

Rule 63 to create procedures for disqualification of judges on a district court panel, and Rule 63A regarding judge changes.

CAUSES OF ACTION

Count XXIII

Violation of Article VIII, Section 1 of the Utah Constitution

16. Plaintiffs restate and incorporate by reference all allegations in this complaint as though fully set forth in this paragraph.

17. Article VIII, Section 1 of the Utah Constitution creates a “trial court of general jurisdiction known as the district court,” which by Article VIII’s text and history means a court with a single district judge presiding, not a panel of three judges.

18. The Legislature exceeded its constitutional authority in enacting H.B. 392 and S.J.R. 5 because it cannot, by statute, alter the Utah Constitution’s requirement that a district court be comprised of a single judge presiding over cases, consistent with the original public meaning of “district court.”

19. Plaintiffs have a vested right under Proposition 4, Utah Code § 20A-19-301(1), to have their case adjudicated by a “court of competent jurisdiction.” Like every litigant, they have the right to have their case adjudicated by a constitutionally composed court.

20. Forcing Plaintiffs to have their case transferred and heard—after four years of litigation—by a panel of three district judges violates Article VIII of the Constitution.

COUNT XXIV

Violation of Uniform Operation of Laws, Article I, Section 24 of Utah Constitution

21. Plaintiffs restate and incorporate by reference all allegations in this complaint as though fully set forth in this paragraph.

22. Article I, Section 24 of the Utah Constitution requires that “[a]ll laws of a general nature shall have uniform operation.” It prohibits laws that treat classes of similarly situated people differently in a manner that is unreasonable, does not further a legitimate legislative purpose, and is not reasonably necessary to further such a purpose.

23. H.B. 392 and S.J.R. 5 violate the uniform operation of laws guarantee because they privilege a single class of civil litigants—the government and certain select government officials—with the power to unilaterally, and for arbitrary reasons, determine whether a single judge or three judges will adjudicate a case. In the context of H.B. 392, governmental and private litigants are similarly situated; nothing about their status as governmental litigants explains why they should have a 45-day window—not afforded to private litigants—to ascertain whether they wish to keep their assigned judge. The governmental litigants’ decision notice to convene a three-judge panel can be based on inappropriate considerations and abusive litigation purposes, such as to delay the possibility of a plaintiff obtaining preliminary relief in a case or because the government likes or dislikes its chances in front of a particular assigned judge. This power to choose the type of tribunal that will hear a case applies only to government litigants, not opposing parties.

24. This burdens private parties in litigation against government entities or officials. For example, H.B. 392 and S.J.R. 5 permit gamesmanship by the government by allowing 45 days to elapse before a three-judge court notice is filed. In emergency litigation, a plaintiff might file a motion for a temporary restraining order or preliminary injunction, have a hearing, and be on the cusp of a decision only to have the government file a notice requiring the judge to cease any action and have the case transferred to a three-judge panel—kneecapping the ability of private plaintiffs to obtain timely and effective relief and prevent irreparable harm.

25. No standards guide when the government might demand a three-judge court, making it wholly arbitrary and capricious, and unequal in its treatment of litigants. No legitimate legislative purpose is served by this scheme, and an unequal and arbitrary scheme is not necessary to further any legitimate purpose.

26. That inequality robs Plaintiffs of a fair and equal judicial process and violates the Uniform Operation of Laws Clause of the Utah Constitution.

COUNT XXV

Violation of Prohibition of Private or Special Laws, Article VI, Section 26 of Utah Constitution

27. Plaintiffs restate and incorporate by reference all allegations in this complaint as though fully set forth in this paragraph.

28. Article VI, Section 26 of the Utah Constitution provides that “[n]o private or special law shall be enacted where a general law can be applicable.”

29. A law is prohibited “special legislation if it confers particular privileges or imposes particular disabilities, or burdensome conditions in the exercise of a common right; upon a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law.” *Hulbert v. State*, 607 P.2d 1217, 1223 (Utah 1980) (quoting *Utah Farm Bureau Ins. Co. v. Utah Ins. Guar. Ass’n*, 564 P.2d 751, 754 (Utah 1977)). “[E]very one has a right to demand that he be governed by general rules, and a special statute which, without his consent, singles his case out as one to be regulated by a different law from that which is applied in all similar cases” violates the prohibition on special laws. *Carter v. Lehi City*, 2012 UT 2, ¶ 43, 269 P.3d 141 (internal quotation marks omitted).

30. H.B. 392 and S.J.R. 5 violate the prohibition on private and special laws by creating a special privilege for certain governmental litigants, and not their opposing parties, to determine

whether they would prefer to have their case adjudicated by a single judge or three judges. If a private litigant desired a three-judge court, only if the government agreed could be constituted only if the government agreed. The decision affects appellate paths and the speed with which a case is decided. There is no reasonable basis to allow the government, but no other litigant, to make this determination.

31. Moreover, H.B. 392 likewise creates no standards or guidelines for which cases involving government parties will be heard by three-judge panels and which will remain before single-judge courts. The discretion is unfettered in the hands of one litigant and can be exercised for arbitrary or pernicious reasons, such as judge or forum preference of the government. As such, it is “an arbitrary mandate [that] is not within the province of free government,” *Carter*, 2012 UT 2, ¶ 43 (internal quotation marks omitted), and thus violates the prohibition on special laws.

COUNT XXVI

Violation of Due Process Clause, Article I, Section 7 of the Utah Constitution

32. Plaintiffs restate and incorporate by reference all allegations in this complaint as though fully set forth in this paragraph.

33. The Due Process Clause guarantees to litigants a day in court for vested causes of action.

34. By purporting to shield three-judge notices filed by governmental parties from challenge or judicial review, H.B. 392 violates the Due Process Clause of the Utah Constitution.

COUNT XXVII

Violation of Open Courts Clause, Article I, Section 11 of Utah Constitution

35. Plaintiffs restate and incorporate by reference all allegations in this complaint as though fully set forth in this paragraph.

36. The Open Courts Clause provides that “[a]ll courts shall be open, and every person, for an injury done to the person in his or her person, property, or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this State, with or without counsel, any civil cause to which the person is a party.” Utah Const. art. I, § 11.

37. H.B. 392 violates the Open Courts Clause by forcing private litigants to appear before a three-judge panel that contravenes Article VIII’s requirements, thereby denying them access to a constitutionally recognized court.

38. It likewise denies access to a tribunal—the three-judge panel—to certain litigants while affording access to others, *i.e.*, governmental litigants, in violation of the Open Courts Clause.

39. Moreover, H.B. 392 functions to unnecessarily delay proceedings in violation of the Open Courts Clause, by allowing a 45-day window during which governmental litigants can disrupt proceedings and demand a new tribunal. This risks severely prejudicing plaintiffs seeking preliminary relief in emergency cases and those who, pursuant to Rule 15, amend their complaints near, during, or even after trial.

40. The Open Courts Clause also guarantees litigants a day in court for their claims, including, in particular, constitutional claims.

41. By purporting to shield three-judge notices filed by governmental parties from challenge or judicial review, H.B. 392 violates the Open Courts Clause of the Utah Constitution.

RELIEF SOUGHT

For the foregoing reasons, and in addition to the relief sought in Plaintiffs’ prior complaints, Plaintiffs request that this Court:

- a. Declare that H.B. 392 and S.J.R. 5 violate Article VIII; Article I, Section 24; Article VI, Section 26; Article I, Section 7; and Article I, Section 11 of the Utah Constitution;
- b. Preliminarily and permanently enjoin Defendants from filing a notice seeking to convene a three-judge panel under H.B. 392 and S.J.R. 5 in this action; and
- c. Grant such other and further relief as the Court deems just and appropriate.

February 21, 2026

RESPECTFULLY SUBMITTED,

/s/ David C. Reymann

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EXHIBIT 1

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District Court Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses civil actions in the district court.

Highlighted Provisions:

This bill:

- ▶ grants the attorney general an unconditional right to intervene in a civil action in the district court upon notice that a party is challenging the constitutionality of a statute;
- ▶ provides that the Utah Supreme Court has exclusive and original appellate jurisdiction over a judgment or order from a panel of three district court judges;
- ▶ provides that the attorney general, the governor, or the Legislature may file a notice to convene a three-judge panel in a civil action in the district court;
- ▶ requires a panel of three district court judges to be convened to hear and decide a civil action upon the filing of a notice to convene a district court panel;
- ▶ requires each judge of a district court panel to be randomly selected and from a different judicial district than the other judges on the panel;
- ▶ addresses the structure and voting process for a district court panel;
- ▶ provides that the statutory venue requirements for a civil action do not apply to an action before a district court panel;
- ▶ requires the Judicial Council to create a rule regarding the random selection process for a judge on a district court panel;
- ▶ addresses staffing of a district court panel; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **78A-3-102**, as last amended by Laws of Utah 2025, Second Special Session, Chapter 3

32 **78B-3a-102**, as enacted by Laws of Utah 2023, Chapter 401

33 ENACTS:

34 **67-5-41**, Utah Code Annotated 1953

35 **78A-5-102.7**, Utah Code Annotated 1953

36

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

38 Section 1. Section **67-5-41** is enacted to read:

39 **67-5-41 . Right to intervene in action challenging constitutionality of a statute.**

40 (1) The attorney general has an unconditional right to intervene in a civil action in a district
 41 court upon receiving a notice under Rule 24 of the Utah Rules of Civil Procedure that a
 42 party is challenging the constitutionality of a statute in the civil action.

43 (2) Intervention by the attorney general in accordance with Subsection (1) does not limit the
 44 Legislature's unconditional right to intervene under Subsection 36-12-7(4).

45 Section 2. Section **78A-3-102** is amended to read:

46 **78A-3-102 . Jurisdiction of Supreme Court.**

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

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

52 (3)(a) The Supreme Court has exclusive and original appellate jurisdiction, including
 53 exclusive and original appellate jurisdiction of an interlocutory appeal, over:

54 (i) a judgment of the Court of Appeals;

55 (ii) a case certified to the Supreme Court by the Court of Appeals before final
 56 judgment by the Court of Appeals;

57 (iii) the discipline of a lawyer;

58 (iv) a final order of the Judicial Conduct Commission;

59 (v) an interlocutory appeal from a court of record involving a capital felony;

60 (vi) an appeal from the district court involving a conviction or charge of a capital
 61 felony;

- 62 (vii) an appeal from the district court of an order, judgment, or decree ruling on a
63 legislative subpoena;
- 64 (viii) an appeal of an injunctive order as described in Section 78B-5-1002;
- 65 (ix) a judgment, or an interlocutory appeal of an order, of a district court involving:
66 (A) an election or voting contest; or
67 (B) the establishment of boundaries of political districts for purposes of an
68 election;[-and]
- 69 (x) the retention or removal of a public officer[-] ; and
- 70 (xi) a judgment, or an interlocutory appeal of an order, from a district court panel
71 described in Section 78A-5-102.7.
- 72 (b) The Supreme Court may not transfer any matter described in Subsection (3)(a) to the
73 Court of Appeals.
- 74 (c) In a case involving an election or voting contest or the establishment of boundaries
75 of political districts for purposes of an election, a judgment is appealable to the
76 Supreme Court even if:
77 (i) a party files a motion or claim for attorney fees under Rule 73 of the Utah Rules of
78 Civil Procedure in the district court; and
79 (ii) the district court has not entered a dispositive order for that motion or claim.
- 80 (4)(a) In addition to Subsection (3)(a), the Supreme Court has original appellate
81 jurisdiction, including original appellate jurisdiction of an interlocutory appeal, over:
82 (i) a final agency action, as described in Section 63G-4-403, in a formal adjudicative
83 proceeding originating from:
84 (A) the Public Service Commission;
85 (B) the State Tax Commission;
86 (C) the School and Institutional Trust Lands Board of Trustees;
87 (D) the Board of Oil, Gas, and Mining;
88 (E) the state engineer; or
89 (F) the executive director of the Department of Natural Resources reviewing an
90 action of the Division of Forestry, Fire, and State Lands;
- 91 (ii) a final order or decree of the district court review of an informal adjudicative
92 proceeding of an agency described in Subsection (4)(a)(i);
- 93 (iii) a final judgment or decree of a court of record holding a statute of the United
94 States or this state is unconstitutional on its face under the Constitution of the
95 United States or the Utah Constitution;

- 96 (iv) an interlocutory appeal from a court of record involving a first degree felony;
 97 (v) an appeal from a district court involving a conviction or charge of a first degree
 98 felony; and
 99 (vi) an order, judgment, or decree of a court of record over which the Court of
 100 Appeals does not have appellate jurisdiction.
- 101 (b) The Supreme Court may transfer any matter described in Subsection (4)(a) to the
 102 Court of Appeals.
- 103 (5)(a) The Supreme Court has sole discretion in granting or denying a petition for writ of
 104 certiorari for the review of a Court of Appeals adjudication.
- 105 (b) Notwithstanding Subsection (5)(a), the Supreme Court shall review a case certified
 106 to the Supreme Court by the Court of Appeals under Subsection (3)(a)(ii).
- 107 (6) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4,
 108 Administrative Procedures Act, in the Supreme Court's review of an agency adjudicative
 109 proceeding.

110 *The following section is affected by a revisor instruction at the end of this bill.*

111 Section 3. Section **78A-5-102.7** is enacted to read:

112 **78A-5-102.7 . Three-judge panel in the district court -- Requirements.**

113 (1) As used in this section:

- 114 (a) "Panel" means a panel of three district court judges that is convened under this
 115 section to hear and decide an action.
- 116 (b)(i) "State entity" means the state or any agency, department, board, or commission
 117 of the state.
- 118 (ii) "State entity" includes the Legislature and any committee of the Legislature.
- 119 (c)(i) "State official" means an individual elected or appointed to a state office.
- 120 (ii) "State official" includes:
- 121 (A) a member of the Legislature;
- 122 (B) the governor;
- 123 (C) the lieutenant governor;
- 124 (D) the state auditor;
- 125 (E) the state treasurer; and
- 126 (F) the attorney general.

127 (2)(a) If a civil action is brought in the district court and a state entity, or a state official
 128 in the state official's capacity, is a party to the civil action, the attorney general, the
 129 governor, or the Legislature may file a notice in the district court that a panel of three

- 130 district court judges must be convened to hear and decide the civil action.
- 131 (b) A notice to convene a panel under Subsection (2)(a):
- 132 (i) may not be challenged by any party; and
- 133 (ii) is not subject to judicial review.
- 134 (c)(i) The Legislature, a committee of the Legislature, or a member of the Legislature
- 135 in the member's capacity, must be a party to the civil action for the Legislature to
- 136 file a notice under Subsection (2)(a).
- 137 (ii) The governor, or a state official for the executive branch, must be a party to the
- 138 civil action for the governor to file a notice under Subsection (2)(a).
- 139 (iii) The attorney general must be a party, or representing a party, to the civil action
- 140 to file a notice under Subsection (2)(a).
- 141 (d) The time periods described in Rule 42 of the Utah Rules of Civil Procedure apply to
- 142 a notice described in this Subsection (2).
- 143 (3)(a) Upon the filing of a notice under Subsection (2), a panel of three district court
- 144 judges shall hear and decide, by majority decision, the civil action in accordance with
- 145 this section.
- 146 (b) Each judge on a panel described in Subsection (3)(a) shall be:
- 147 (i) selected at random; and
- 148 (ii) from a different judicial district than the other judges on the panel.
- 149 (4)(a) The presiding officer of the Judicial Council shall select one judge assigned to a
- 150 panel to be the chief judge of the panel.
- 151 (b) Except as provided in Subsection (4)(c), the chief judge shall conduct all proceedings
- 152 in an action before a panel.
- 153 (c) A panel shall sit en banc for a trial, an order for an injunction or temporary
- 154 restraining order, or any motion that would dispose of the action or any claim or
- 155 defense in the action.
- 156 (d) A judge on a panel may concur or dissent from any decision for which the panel sits
- 157 en banc.
- 158 (5)(a) Title 78B, Chapter 3a, Venue for Civil Actions, does not apply to an action before
- 159 a panel.
- 160 (b) Any requirement in the Utah Code to file or bring an action in a specific district or
- 161 county does not apply to an action before a panel.
- 162 (6)(a) Before March 7, 2026, the Judicial Council shall:
- 163 (i) by rule, create a process by which a district court judge is assigned to a panel by

- 164 random selection, including any reassignment of a district court judge on a panel
165 due to disqualification, recusal, or a change of judge as a matter of right; and
166 (ii) establish and maintain a list of judges who the Judicial Council determines are
167 qualified to serve on a panel.
- 168 (b) The list established under Subsection (6)(a) shall consist of at least 50% of the
169 district court judges from each district.
- 170 (c) The Judicial Council shall post the list described in Subsection (6)(a) on the website
171 for the Utah state courts with information on the dates and number of times that a
172 judge has served on a panel.
- 173 (7) The Judicial Council shall hire a coordinator and staff to assist any panel convened
174 under this section.

175 Section 4. Section **78B-3a-102** is amended to read:

176 **78B-3a-102 . Applicability of this chapter -- Venue for the Business and**
177 **Chancery Court.**

- 178 (1) Except as otherwise provided by another provision of the Utah Code, a plaintiff shall
179 bring an action in accordance with the requirements of this chapter.
- 180 (2) The requirements of this chapter do not apply to:
- 181 (a) an action brought in the Business and Chancery Court[-] ; or
182 (b) an action before a panel of judges in the district court under Section 78A-5-102.7.

183 Section 5. **Effective Date.**

184 This bill takes effect:

- 185 (1) except as provided in Subsection (2), May 6, 2026; or
186 (2) if approved by two-thirds of all members elected to each house:
- 187 (a) upon approval by the governor;
188 (b) without the governor's signature, the day following the constitutional time limit of
189 Utah Constitution, Article VII, Section 8; or
190 (c) in the case of a veto, the date of veto override.

EXHIBIT 2

1 **Joint Resolution Amending the Utah Rules of Civil Procedure**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

House Sponsor: Jordan D. Teuscher

2
3 **LONG TITLE**

4 **General Description:**

5 This resolution amends the Utah Rules of Civil Procedure.

6 **Highlighted Provisions:**

7 This resolution:

- 8 ▶ amends Utah Rules of Civil Procedure, Rule 1, to add a definition;
- 9 ▶ amends Utah Rules of Civil Procedure, Rule 42, to address the transfer of an action;
- 10 ▶ amends Utah Rules of Civil Procedure, Rule 63, to address the disqualification of a judge
11 on a three-judge panel in the district court;
- 12 ▶ amends Utah Rules of Civil Procedure, Rule 63A, to address the change of judge as a
13 matter of right with regard to a three-judge panel in the district court;
- 14 ▶ makes technical and conforming changes; and
- 15 ▶ includes a coordination clause to ensure that the changes for Rule 42 in this resolution
16 merge with the changes for Rule 42 in S.J.R. 6, Joint Resolution Amending Court Rules
17 Regarding Medical Malpractice.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This resolution provides a special effective date.

22 This resolution provides a coordination clause.

23 This resolution provides revisor instructions.

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

25 AMENDS:

26 **Rule 1**, Utah Rules of Civil Procedure

27 **Rule 42**, Utah Rules of Civil Procedure

28 **Rule 63**, Utah Rules of Civil Procedure

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

30 **Utah Code Sections affected by Coordination Clause:**

31 **Rule 42**, as Utah Rules of Civil Procedure

32

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

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

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

39 **Rule 1 . General provisions; definition.**

40 **(a) Scope of rules.** These rules govern the procedure in the courts of the state of Utah in
 41 all actions of a civil nature, whether cognizable at law or in equity, and in all statutory
 42 proceedings, except as governed by other rules promulgated by this court or statutes enacted
 43 by the Legislature, and except as stated in Rule 81. They must be liberally construed and
 44 applied to achieve the just, speedy, and inexpensive determination of every action. These rules
 45 govern all actions brought after they take effect and all further proceedings in actions then
 46 pending. If, in the opinion of the court, applying a rule in an action pending when the rule
 47 takes effect would not be feasible or would be unjust, the former procedure applies.

48 **(b) Definition.** As used in these rules, "district court panel" means a panel of three district
 49 court judges that is convened to hear and decide an action.

50 *The following section is affected by a coordination clause at the end of this bill.*

51 Section 2. **Rule 42**, Utah Rules of Civil Procedure is amended to read:

52 **Rule 42 . Consolidation; separate trials; venue transfer.**

53 **(a) Consolidation.**

54 (1) When actions involving a common question of law or fact or arising from the same
 55 transaction or occurrence are pending before the court in one or more judicial districts, the
 56 court may, on motion of any party or on the court's own initiative:

57 (A) order that the actions are consolidated in whole or in part for any purpose,
 58 including for discovery, other pretrial matters, or a joint hearing or trial;

59 (B) stay any or all of the proceedings in any action subject to the order;

60 (C) transfer any or all further proceedings in the actions to a location in which any
 61 of the actions is pending after consulting with the presiding judge of the receiving court; and

62 _____ (D) make other such orders concerning proceedings therein as may tend to avoid
63 unnecessary costs or delay.

64 [~~(1)~~] (2) In determining whether to order consolidation and the appropriate location for
65 the consolidated proceedings, the court may consider, among other factors:

66 _____ (A) the complexity of the actions;

67 _____ (B) the importance of any common question of fact or law to the determination of
68 the actions;

69 _____ (C) the risk of duplicative or inconsistent rulings, orders, or judgments;

70 _____ (D) the case and records classification of each case as described in Rule 4-202.02
71 of the Utah Code of Judicial Administration;

72 _____ (E) the relative procedural postures of the actions;

73 _____ (F) the risk that consolidation may unreasonably delay the progress, increase the
74 expense, or complicate the processing of any action;

75 _____ (G) prejudice to any party that far outweighs the overall benefits of consolidation;

76 _____ (H) the convenience of the parties, witnesses, and counsel; and

77 _____ (I) the efficient utilization of judicial resources and the facilities and personnel of
78 the court.

79 [~~(2)~~] (3) A motion to consolidate may be filed or opposed by any party to either action to
80 be consolidated, without seeking permission to intervene. The motion must be filed in and
81 heard by the judge assigned to the first action filed and must be served on all parties in each
82 action pursuant to Rule 5. The movant must file in each action notice of the motion and notice
83 of the order denying or granting the motion.

84 [~~(3)~~] (4) If the court orders consolidation, the consolidated case will be heard by the
85 judge assigned to the first action filed, unless otherwise ordered by the presiding judge or
86 agreed upon by the originally assigned judges. The court will order that a single case number
87 be used for all subsequent filings in the consolidated case.

88 (b) **Consolidation or severance in whole or in part.** For convenience or to avoid prejudice,
89 the court may:

90 (1) order that the consolidated matters be tried together or that a separate trial be held on
91 any one or more claims, crossclaims, counterclaims, third-party claims, or separate issues; or

92 (2) order that the consolidated matters be severed at any point and provide that the
93 matters be treated as separate actions going forward, including that the severed matters be tried
94 by either the judge in the consolidated matter or the originally assigned judge.

95 (c) **Reassignment.** If the consolidation of actions would be otherwise appropriate but is not

96 administratively possible, the judge assigned to the first action may order the court clerk to
 97 reassign the other actions to the judge assigned to the first action. Such actions will be treated
 98 for all purposes as if they were consolidated except that the actions will retain their separate
 99 case numbers, which must be included on all filings.

100 **(d) [~~Venue Transfer~~] Transfer of an action to proper venue or the business and chancery**
 101 **court.**

102 **(1) Transfer to proper venue.**

103 (A) On timely motion of any party, where transfer to a proper venue is available, the
 104 court must transfer any action filed in an improper venue.

105 ~~[(2)]~~ (B) The court must give substantial deference to a plaintiff's choice of a proper
 106 venue.

107 (C) On timely motion of any party, a court may:

108 (i) transfer venue of any action, in whole or in part, to any other venue for any
 109 purpose, including for discovery, other pretrial matters, or a joint hearing or trial;

110 (ii) stay any or all of the proceedings in the action; and

111 (iii) make other such orders concerning proceedings therein to pursue the
 112 interests of justice and avoid unnecessary costs or delay. [~~In determining whether to transfer~~
 113 ~~venue and the appropriate venue for the transferred proceedings, the court may consider,~~
 114 ~~among other factors, whether transfer will: increase the likelihood of a fair and impartial~~
 115 ~~determination in the action; minimize expense or inconvenience to parties, witnesses, or the~~
 116 ~~court; decrease delay; avoid hardship or injustice otherwise caused by venue requirements; and~~
 117 ~~advance the interests of justice.~~

118 ~~(3) The court may direct that specified parties pay the expenses, if any, of transfer.]~~

119 **(2) Transfer to business and chancery court.**

120 (A) If a plaintiff filed the complaint in the district court and the action meets the
 121 jurisdictional requirements of the business and chancery court, a party may file a separate
 122 notice requesting transfer of the action to the business and chancery court.

123 (B) If a party makes a request to transfer an action to the business and chancery court
 124 within 21 days after the appearance of the party:

125 (i) the district court must transfer the action to the business and chancery court
 126 unless the district court determines that the transfer will prejudice the interests of justice; and

127 (ii) the district court may not give any deference to the plaintiff's choice to file the
 128 complaint in the district court.

129 (C) If a party makes a request to transfer an action to the business and chancery court

130 more than 21 days after the appearance of the party, the district court may:

131 _____ (i) give deference to the plaintiff's choice to file the complaint in the district court;

132 or

133 _____ (ii) transfer the action to the business and chancery court if the factors described in
134 paragraph (d)(3) weigh in favor of transfer.

135 _____ (D) A district court may not transfer the action to the business and chancery court
136 under this rule if the action does not meet the jurisdictional requirements of the business and
137 chancery court.

138 _____ **(3) Factors in determining whether to transfer an action.** On a motion under paragraph
139 (d)(1) or (2), a court may consider, among other factors, whether the transfer will:

140 _____ (A) increase the likelihood of a fair and impartial determination in the action;

141 _____ (B) minimize expense or inconvenience to parties, witnesses, or the court;

142 _____ (C) decrease delay;

143 _____ (D) avoid hardship or injustice otherwise caused by:

144 _____ (i) the venue requirements if the court is determining whether to transfer the
145 action to the appropriate venue under paragraph (d)(1); or

146 _____ (ii) keeping the action in the district court if the court is determining whether to
147 transfer the action to the business and chancery court under paragraph (d)(2); and

148 _____ (E) advance the interests of justice.

149 _____ **(4) Expenses.** The court may direct that specified parties pay the expenses, if any, of a
150 transfer of an action to the appropriate venue or to the business and chancery court.

151 _____ **(e) Transfer of an action to district court panel.**

152 _____ (1) The Attorney General, the Governor, or the Legislature may file a notice to convene
153 a district court panel, as described in Utah Code section 78A-5-102.7, in an action in the
154 district court if the notice to convene is filed within 45 days after:

155 _____ (A) the day on which the action is commenced;

156 _____ (B) the day on which the amended complaint is filed if the complaint is amended in
157 the action; or

158 _____ (C) February 13, 2026, if the action is pending in the district court on February 13,
159 2026.

160 _____ (2) If the Attorney General, the Governor, or the Legislature files a notice to convene a
161 district court panel, the district court judge assigned to the action at the time the notice is filed
162 must:

163 _____ (A) notify the presiding officer of the Judicial Council that the action must be

164 transferred to a district court panel; and

165 _____ (B) transfer the action to the district court panel convened to hear and decide the
166 action.

167 _____ (3) Upon the filing of a notice to convene a district court panel, the district court judge
168 assigned to the action at the time the notice is filed may not sever any matter from the action or
169 take any further action.

170 Section 3. **Rule 63**, Utah Rules of Civil Procedure is amended to read:

171 **Rule 63 . Disability or disqualification of a judge.**

172 **(a) Substitute judge; [Prior] prior testimony.** If the judge to whom an action has been
173 assigned is unable to perform his or her duties, then any other judge of that district or any
174 judge assigned pursuant to Judicial Council rule is authorized to perform those duties. The
175 judge to whom the case is reassigned may rehear the evidence or some part of it.

176
177 **(b) Motion to disqualify; affidavit or declaration.**

178 ~~[(b)]~~(1) A party to an action or the party's attorney may file a motion to disqualify a
179 judge.

180 _____ (2) The motion must be accompanied by a certificate that the motion is filed in good
181 faith and must be supported by an affidavit or unsworn declaration as described in Title 78B,
182 Chapter 18a, Uniform Unsworn Declarations Act, stating facts sufficient to show bias,
183 prejudice or conflict of interest. The motion must also be accompanied by a request to submit
184 for decision.

185 ~~[(b)(2)]~~ (3) The motion must be filed after commencement of the action, but not later
186 than 21 days after the last of the following:

187 ~~[(b)(2)]~~(A) assignment of the action or hearing to the judge;

188 ~~[(b)(2)]~~(B) appearance of the party or the party's attorney; or

189 ~~[(b)(2)]~~(C) the date on which the moving party knew or should have known of the
190 grounds upon which the motion is based.

191 If the last event occurs fewer than 21 days before a hearing, the motion must be filed
192 as soon as practicable.

193 ~~[(b)(3)]~~ (4) Signing the motion or affidavit or declaration constitutes a certificate under
194 Rule 11 and subjects the party or attorney to the procedures and sanctions of Rule 11.

195 ~~[(b)(4)]~~ (5) No party may file more than one motion to disqualify in an action, unless the
196 second or subsequent motion is based on grounds that the party did not know of and could not
197 have known of at the time of the earlier motion.

198 ~~[(b)(5)]~~ (6) If timeliness of the motion is determined under paragraph ~~[(b)(2)(C)]~~ (b)(3)(C)
199 or paragraph ~~[(b)(4)]~~ (b)(5), the affidavit or declaration supporting the motion must state when
200 and how the party came to know of the reason for disqualification.

201 **(c) Reviewing judge.**

202 ~~[(e)]~~(1) The judge who is the subject of the motion must, without further hearing or a
203 response from another party, enter an order granting the motion or certifying the motion and
204 affidavit or declaration to a reviewing judge. The judge must take no further action in the case
205 until the motion is decided. If the judge grants the motion, the order will direct the presiding
206 judge of the court to assign another judge to the action or hearing. Assignment in justice court
207 cases will be in accordance with Utah Code of Judicial Administration Rule 9-109. The
208 presiding judge of the court, any judge of the district, or any judge of a court of like
209 jurisdiction may serve as the reviewing judge.

210 ~~[(e)]~~(2) If the reviewing judge finds that the motion and affidavit or declaration are
211 timely filed, filed in good faith and legally sufficient, the reviewing judge shall assign another
212 judge to the action or hearing or request the presiding judge to do so. Assignment in justice
213 court cases will be in accordance with Utah Code of Judicial Administration Rule 9-109.

214 ~~[(e)]~~(3) In determining issues of fact or of law, the reviewing judge may consider any
215 part of the record of the action and may request of the judge who is the subject of the motion
216 an affidavit or declaration responding to questions posed by the reviewing judge.

217 ~~[(e)]~~(4) The reviewing judge may deny a motion not filed in a timely manner.

218 **(d) Disqualification of a judge on a district court panel.**

219 (1) A party may file a motion to disqualify a judge on a district court panel but may not
220 file a motion to disqualify a district court panel.

221 (2) The presiding officer of the Judicial Council is the reviewing judge for any motion to
222 disqualify a judge on a district court panel.

223 (3) If a motion to disqualify is granted for a judge on a district court panel:

224 (A) the action is not reassigned to a new district court panel; and

225 (B) a new judge must be promptly assigned in accordance with the random selection
226 process in the Utah Code of Judicial Administration for a district court panel.

227 Effective May 8, 2018 pursuant to CJA Rule 11-105(5)

228 Section 4. **Rule 63A**, Utah Rules of Civil Procedure is amended to read:

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

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

231 ~~[(a)]~~(1) **Right to change a judge by one side of an action.**

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

235 _____ [(B)] When a district court panel is convened, each side is entitled to one change of
236 a judge on the district court panel as a matter of right under this paragraph (a).

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

240 [(a)(1)(C)] [(D)] A side is not entitled to more than one change of judge under this
241 paragraph (a).

242 [(a)(1)(D)] [(E)] Regardless of when a party joins a civil action, a party is not entitled to
243 a change of judge as a matter of right under this paragraph (a) if the notice of a change of
244 judge is untimely under paragraph (a)(2).

245 [(a)(2)] **Notice of a change of judge.**

246 [(a)(2)(A)] A party seeking a change of judge under this paragraph (a) must file a
247 notice of a change of judge with the clerk of the court.

248 [(a)(2)(B)] If the notice of a change of judge is timely under this paragraph (a)(2), the
249 notice must be granted.

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

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

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

256 [(a)(2)(D)] The notice must be filed:

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

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

262 _____ [(E)] For a district court panel, the notice must be filed within seven days after the
263 day on which the parties receive notice of the judges assigned to the district court panel.

264 [(a)(2)(E)] [(F)] Failure to file a timely notice of a change of judge under this rule
265 precludes a change of judge under this paragraph (a).

266 [(a)(3)](3) **Assignment of action.**

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

269 [(a)(3)](B) [The] Except as provided in paragraph (a)(3)(D), the action must be
270 promptly reassigned to another judge within the county.

271 [(a)(3)](C) If the action is unable to be reassigned to another judge within the county
272 under paragraph (a)(3)(B), the action may be transferred to a court in another county in
273 accordance with Rule 42.

274 (D) If a notice of a change of judge is filed for a district court panel:

275 (i) the action is not reassigned to a new district court panel; and

276 (ii) a new judge must be promptly assigned in accordance with the random
277 selection process described in the Utah Code of Judicial Administration for a district court
278 panel.

279 [(a)(4)](4) **Exceptions.** A party, or a side, is not entitled to change a judge as a matter of
280 right under this paragraph (a):

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

283 [(a)(4)](B) on a petition to modify child custody, child support, or alimony, unless
284 the judge assigned to the action is not the same judge assigned to any of the previous actions
285 between the parties;

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

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

288 [(a)(4)](E) in an action on remand from an appellate court; or

289 [(a)(4)](F) if an action is unable to be transferred under paragraph (a)(3)(C) to
290 another county in accordance with Rule 42.

291 (b) **Right to change a judge by agreement of the parties.**

292 [(b)(1)](1) **Notice of a change of judge.**

293 [(b)(1)](A) Except in actions with only one party, all parties joined in the action may,
294 by unanimous agreement and without cause, change the judge assigned to the action by filing a
295 notice of change of judge.

296 (B) For an action before a district court panel, all parties joined in the action may, by
297 unanimous agreement and without cause, change a judge assigned to the panel by filing a
298 notice of change of judge.

299 [(b)(1)](B) ~~The parties shall send a copy of the notice to the assigned judge and the~~

presiding judge.]

(C) Except as provided in paragraph (b)(1)(D), the parties must file a copy of the notice with the assigned judge and send a copy of the notice to the presiding judge.

(D) If the action is before a district court panel, the parties must file a copy of the notice with the district court panel and send a copy of the notice to the presiding officer of the Judicial Council.

~~(b)(1)(C)~~ (E) The notice ~~[shall]~~ must be signed by all parties and ~~[shall]~~ must state: (1) the name of the assigned judge; (2) the date on which the action was commenced; (3) that all parties joined in the action have agreed to the change; (4) that no other persons are expected to be named as parties; and (5) that a good faith effort has been made to serve all parties named in the pleadings.

~~(b)(1)(D)~~ (F) The notice ~~[shall not]~~ may not specify any reason for the change of judge.

~~(b)(1)(E)~~ (G) Under no circumstances ~~[shall]~~ is more than one change of judge ~~[be]~~ allowed under this paragraph (b) in an action.

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

~~(b)(2)~~(A) Unless extended by the court upon a showing of good cause, the notice must be filed within 90 days after:

(i) commencement of the action or prior to the notice of trial setting, whichever occurs first[-] ; or

(ii) if the action is before a district court panel, the parties receive notice of the judges assigned to the district court panel.

~~(b)(2)~~(B) Failure to file a timely notice precludes any change of judge under this paragraph (b).

~~(b)~~(3) **Assignment of action.**

~~(b)(3)~~(A) Upon the filing of a notice of change, the assigned judge ~~[shall]~~ must take no further action in the case.

~~(b)(3)~~(B) ~~[The]~~ Except as provided in paragraph (b)(3)(D), the presiding judge [shall] must promptly determine whether the notice is proper and, if so, [shall] must reassign the action.

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

334 _____ (D) If a notice is filed for a change of judge on a district court panel:

335 _____ (i) the presiding officer of the Judicial Council must promptly determine whether
 336 the notice is proper; and

337 _____ (ii) if the notice is proper, a new judge must be promptly assigned in accordance
 338 with the random selection process described in the Utah Code of Judicial Administration for a
 339 district court panel.

340 _____ ~~[(b)]~~(4) **Nondisclosure to court.** ~~[No party shall]~~ A party may not communicate to the
 341 court, or cause another to communicate to the court, the fact of any party's seeking consent to a
 342 notice of change.

343 _____ (c) **Rule 63 unaffected.** Nothing in this rule precludes the right of any party to seek
 344 disqualification of a judge under Rule 63.

345 _____ **Section 5. Effective Date.**

346 _____ As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect
 347 upon a two-thirds vote of all members elected to each house.

348 _____ **Section 6. Revisor instructions.**

349 _____ The Legislature intends that the Office of Legislative Research and General Counsel, in
 350 enrolling this resolution:

351 _____ (1) delete the phrase "the effective date of this resolution" where the phrase appears in

352 _____ Sections 2 and 7 of this resolution; and

353 _____ (2) replace the phrase with the actual date on which the resolution takes effect.

354 _____ **Section 7. Coordinating S.J.R. 5 with S.J.R. 6.**

355 _____ If S.J.R. 5, Joint Resolution Amending the Utah Rules of Civil Procedure, and S.J.R. 6,
 356 Joint Resolution Amending Court Rules Regarding Medical Malpractice, both pass and
 357 become law, the Legislature intends that, on the date when both resolutions have passed and
 358 taken effect, Rule 42 of the Utah Rules of Civil Procedure be amended to read:

359 _____ "**Rule 42. Consolidation; separate trials; [venue transfer] transfer of an action.**

360 _____ (a) **Consolidation.**

361 _____ (1) When actions involving a common question of law or fact or arising from the same
 362 transaction or occurrence are pending before the court in one or more judicial districts, the
 363 court may, on motion of any party or on the court's own initiative:

364 _____ (A) order that the actions are consolidated in whole or in part for any purpose,
 365 including discovery, other pretrial matters, or a joint hearing or trial;

366 _____ (B) stay any or all of the proceedings in any action subject to the order;

367 _____ (C) transfer any or all further proceedings in the actions to a location in which any of

368 the actions is pending after consulting with the presiding judge of the receiving court; and

369 _____ (D) make other such orders concerning proceedings therein as may tend to avoid
 370 unnecessary costs or delay.

371 _____ [(1)] (2) In determining whether to order consolidation and the appropriate location for the
 372 consolidated proceedings, the court may consider, among other factors:

373 _____ (A) the complexity of the actions;

374 _____ (B) the importance of any common question of fact or law to the determination of the
 375 actions;

376 _____ (C) the risk of duplicative or inconsistent rulings, orders, or judgments;

377 _____ (D) the case and record classifications of each case as described in Rule 4-202.02 of
 378 the Utah Code of Judicial Administration;

379 _____ (E) the relative procedural postures of the actions;

380 _____ (F) the risk that consolidation may unreasonably delay the progress, increase the
 381 expense, or complicate the processing of any action;

382 _____ (G) prejudice to any party that far outweighs the overall benefits of consolidations;

383 _____ (H) the convenience of the parties, witnesses, and counsel; and

384 _____ (I) the efficient utilization of judicial resources and the facilities and personnel of the
 385 court.

386 _____ [(2)] (3) A motion to consolidate may be filed or opposed by any party to either action to be
 387 consolidated, without seeking permission to intervene. The motion must be filed in and heard
 388 by the judge assigned to the first action filed and must be served on all parties in each action
 389 pursuant to Rule 5. The movant must file in each action notice of the motion and notice of the
 390 order denying or granting the motion.

391 _____ [(3)] (4) If the court orders consolidation, the consolidated case will be heard by the judge
 392 assigned to the first action filed, unless otherwise ordered by the presiding judge or agreed
 393 upon by the originally assigned judges. The court will order that a single case number be used
 394 for all subsequent filings in the consolidated case.

395 _____ (b) **Consolidation or severance in whole or in part.** For convenience or to avoid prejudice,
 396 the court may:

397 _____ (1) order that the consolidated matters be tried together or that a separate trial be held on
 398 any one or more claims, crossclaims, counterclaims, third-party claims, or separate issues; or

399 _____ (2) order that the consolidated matters be severed at any point and provide that the
 400 matters be treated as separate actions going forward, including that the severed matters be tried
 401 by either the judge in the consolidated matter or the originally assigned judge.

402 (c) Separate trials in a medical malpractice action. For a malpractice action against a health
 403 care provider, the factfinder may not prejudice a defendant by knowing or considering
 404 evidence of the claimant's alleged losses for past medical expenses or the past cost of medical
 405 equipment before:

406 (1) liability for the alleged losses has been established; and

407 (2) any claim or award of noneconomic damages, if any, for the alleged losses has been
 408 fully adjudicated or entered.

409 ~~[(e)]~~ **(d) Reassignment.** If the consolidation of the actions would be otherwise appropriate
 410 but is not administratively possible, the judge assigned to the first action may order the court
 411 clerk to reassign the other actions to the judge assigned to the first action. Such actions will be
 412 treated for all purposes as if they were consolidated except that the actions will retain their
 413 separate case numbers, which must be included on all filings.

414 ~~[(d)]~~ **(e) [Venue Transfer.] Transfer of an action to proper venue or the business and**
 415 **chancery court.**

416 (1) Transfer to proper venue.

417 (A) On timely motion of any party, where transfer to a proper venue is available, the
 418 court must transfer any action filed in an improper venue.

419 ~~[(2-)]~~ (B) The court must give substantial deference to a plaintiff's choice of proper
 420 venue.

421 (C) On timely motion of any party, a court may:

422 (i) transfer venue of any action, in whole or in part, to any other venue for any
 423 purpose, including for discovery, other pretrial matters, or a joint hearing or trial;

424 (ii) stay any or all of the proceedings in the action; and

425 (iii) make other such orders concerning proceedings therein to pursue the interests
 426 of justice and avoid unnecessary costs or delay. [In determining whether to transfer venue and
 427 the appropriate venue for the transferred proceedings, the court may consider, among other
 428 facts, whether the transfer will: increase the likelihood of a fair and impartial determination in
 429 the action; minimize expense or inconvenience to parties, witnesses, or the court; decrease
 430 delay; avoid hardship or injustice otherwise caused by the venue requirements; and advance
 431 the interests of justice.]

432 ~~[(3) The court may direct that specified parties pay the expenses, if any, of transfer.]~~

433 (2) Transfer to business and chancery court.

434 (A) If a plaintiff filed the complaint in the district court and the action meets the
 435 jurisdictional requirements of the business and chancery court, a party may file a separate

436 notice requesting transfer of the action to the business and chancery court.

437 (B) If a party makes a request to transfer an action to the business and chancery court
438 within 21 days after the appearance of the party:

439 (i) the district court must transfer the action to the business and chancery court
440 unless the district court determines that the transfer will prejudice the interests of justice; and

441 (ii) the district court may not give any deference to the plaintiff's choice to file the
442 complaint in the district court.

443 (C) If a party makes a request to transfer an action to the business and chancery court
444 more than 21 days after the appearance of the party, the district court may:

445 (i) give deference to the plaintiff's choice to file the complaint in the district court;

446 or

447 (ii) transfer the action to the business and chancery court if the factors described in
448 paragraph (e)(3) weigh in favor of transfer.

449 (D) A district court may not transfer the action to the business and chancery court
450 under this rule if the action does not meet the jurisdictional requirements of the business and
451 chancery court.

452 **(3) Factors in determining whether to transfer an action.** On a motion under paragraph
453 (e)(1) or (2), a court may consider, among other factors, whether the transfer will:

454 (A) increase the likelihood of a fair and impartial determination in the action;

455 (B) minimize expense or inconvenience to parties, witnesses, or the court;

456 (C) decrease delay;

457 (D) avoid hardship or injustice otherwise caused by:

458 (i) the venue requirements if the court is determining whether to transfer the
459 action to the appropriate venue under paragraph (e)(1); or

460 (ii) keeping the action in the district court if the court is determining whether to
461 transfer the action to the business and chancery court under paragraph (e)(2); and

462 (E) advance the interests of justice.

463 **(4) Expenses.** The court may direct that specified parties pay the expenses, if any, of a
464 transfer of an action to the appropriate venue or to the business and chancery court.

465 **(f) Transfer of an action to district court panel.**

466 (1) The Attorney General, the Governor, or the Legislature may file a notice to convene
467 a district court panel, as described in Utah Code section 78A-5-102.7, in an action in the
468 district court if the notice to convene is filed within 45 days after:

469 (A) the day on which the action is commenced;

470 _____ (B) the day on which the amended complaint is filed if the complaint is amended in
471 the action; or
472 _____ (C) February 13, 2026, if the action is pending in the district court on February 13,
473 2026.
474 _____ (2) If the Attorney General, the Governor, or the Legislature files a notice to convene a
475 district court panel, the district court judge assigned to the action at the time the notice is filed
476 must:
477 _____ (A) notify the presiding officer of the Judicial Council that the action must be
478 transferred to a district court panel; and
479 _____ (B) transfer the action to the district court panel convened to hear and decide the
480 action.
481 _____ (3) Upon the filing of a notice to convene a district court panel, the district court judge
482 assigned to the action at the time the notice is filed may not sever any matter from the action or
483 take any further action."