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Research Guide: Utah Judicial System

§1 Introduction

Courts, also known as the judicial branch of government, resolve disputes between people, companies and the government. Courts interpret the law and uphold the constitution.

Utah's courts are divided into three levels:

- Trial courts, where cases start
- The Court of Appeals, an intermediate appellate court where most appeals are first heard
- The Supreme Court, which hears further appeals and has final authority in the cases it hears

§2 State of Deseret (1847-1851)

Before Utah was established as a territory by Congress in 1850, it was known as the State of Deseret, and had its own provisional government complete with a constitution,¹ laws,² and legislative,³ executive⁴ and judicial⁵ branches.

The supreme court of the State of Deseret consisted of a chief justice and two associate justices who were elected by joint vote of both houses of the General Assembly.⁶ The supreme court was responsible for acting as "conservators of the peace throughout the State," and for exercising appellate powers.⁷

¹ Constitution of the State of Deseret (January 15, 1850)

² Ordinances of the State of Deseret, published as Appendix B of Dale L. Morgan, *The State of Deseret*, Utah State University Press (1987).

³ Constitution of the State of Deseret, Article II.

⁴ Constitution of the State of Deseret, Article III.

⁵ Constitution of the State of Deseret, Article IV.

⁶ Constitution of the State of Deseret, Article IV §§ II and III.

⁷ Constitution of the State of Deseret, Article IV § III.

§3 Territorial Courts (1851-1896)⁸

The territorial courts of Utah were established in the Organic Act in 1850.⁹ The Act established a supreme court, district courts, probate courts and justice of the peace courts.

The territorial supreme court consisted of a chief justice and two associate justices, appointed to four year terms. The territory was divided into three judicial districts, and each justice was charged with holding a district court in each of the districts. Supreme court and district courts had chancery and common law jurisdiction. Decisions of the territorial supreme court were appealed directly to United States supreme court.

§4 State Courts (1896-)

Utah became a state in 1896.¹⁰ Article VIII of the new state constitution provided for a three-member supreme court, with the option of increasing that number to five in 1905.¹¹ The supreme court had original jurisdiction to issue writs of mandamus, certiorari, prohibition, quo warranto and habeas corpus, and appellate jurisdiction over the decisions of the district courts.¹²

The original constitution also provided for seven judicial districts, each of which would have at least one, but no more than three, district court judges.¹³ The district courts had original jurisdiction in all civil and criminal matters, and appellate jurisdiction over inferior courts.¹⁴ In the years that followed, several changes were made to the courts:

- In 1917 the legislature increased the number of supreme court justices from three to five, and their term from six to ten years.¹⁵
- In 1944, voters approved a constitutional amendment that increased the number of supreme court justices to five, and eliminated partisan election of judges.¹⁶
- In 1968, voters approved a constitutional amendment allowing the legislature to provide standards for mandatory retirement and for removal of judges from office.¹⁷

⁸ For a detailed discussion about Utah's territorial courts, see Thomas G. Alexander, *The Utah Federal Courts and the Areas of Conflict, 1850-1896* (1961) (unpublished MS Thesis, Utah State University). Additional information about Utah's territorial courts can be found in Robert Lee Warthen, *Legal Research in the State of Deseret and the Utah Territory, 1847-1896*, published in Michael Chiorazzi & Maguerite Most, editors, *Prestatehood Legal Materials: a Fifty-State Research Guide, including New York City and the District of Columbia*, Binghamton: Haworth Information Press, 2005.

⁹ An Act to Establish a Territorial Government for Utah, ch.51 §9, 9 Stat. 453, 455 (September 9, 1850).

¹⁰ Admission of Utah as a State, Proclamation No. 9, 29 Stat. 876 (January 4, 1896).

¹¹ Constitution of the State of Utah, Article VIII, §2 (1895).

¹² Constitution of the State of Utah, Article VIII, §4 (1895).

¹³ Constitution of the State of Utah, Article VIII, §5 (1895).

¹⁴ Constitution of the State of Utah, Article VIII, §7 (1895).

¹⁵ Laws of Utah, ch. 54, §2 (1917).

¹⁶ Joint Resolution Proposing Constitutional Amendment Relating to Supreme and District Courts and Judges, Laws of Utah, S.J.R. No. 2 (1943). Approved by voters November 7, 1944; effective January 1, 1945.

¹⁷ A Joint Resolution Proposing to Amend Article VIII of the Constitution of the State of Utah by the Addition of Section 28, Authorizing the Legislature to Provide for the Mandatory Retirement and for Removal of Judges from Office, Laws of Utah, S.J.R. No. 5 (1967). Approved by voters and effective November 5, 1968.

In 1984, the judicial article of the Utah Constitution was substantially revised.¹⁸ Aside from the amendments mentioned above, this was the first major revision of Article VIII since statehood. The 1984 revision was intended to create a “modern, unified court system and an independent judiciary.”¹⁹ Among other things, the revised judicial article gave the supreme court constitutional rulemaking authority.²⁰ Previously this authority was delegated to the court by the legislature.²¹

In May of 1985, Governor Norman H. Bangerter appointed a task force to recommend statutory changes needed to implement the revised judicial article. The Governor’s Task Force on the Judicial Article focused on the following areas:²²

- Supreme court workload and backlog
- Supreme court organization
- Appellate organization and jurisdiction in general
- Trial and appellate jurisdiction of the circuit court
- Court administration
- Amending or repealing statutes inconsistent with the revised judicial article and amending or enacting statutes to implement the policy changes recommended by the task force

The Task Force ultimately presented a list of recommendations, including the establishment of a seven-judge Court of Appeals and issues related to the retention of judges, judicial salaries and the judicial conduct commission.²³

The recommendations of the Task Force were presented to the Legislature as HB 100.²⁴ The bill passed and created the Utah Court of Appeals,²⁵ and revised the laws relating to judicial nominating commissions,²⁶ among other things.

¹⁸ A Joint Resolution of the Legislature Proposing to Amend the Utah Constitution; Relating to the Judicial Article of the Utah Constitution [...], Laws of Utah, S.J.R. No. 1 (Second Special Session 1984). Approved by voters November 6, 1984; effective July 1, 1985.

¹⁹ Jean Bickmore White, *The Utah State Constitution: A Reference Guide*, 106. Westport: Greenwood Press, 1998.

²⁰ Utah Constitution, Art. VIII §4.

²¹ Utah Code Ann. §78-2-4 (1983).

²² *Governor’s Task Force on the Judicial Article: Report Prepared for the Honorable Norman H. Bangerter*. Salt Lake City: Governor’s Task Force on the Judicial Article, 1985.

²³ See *A Blueprint for Reform of the Utah Judicial System*. Salt Lake City: The Task Force, 1985.

²⁴ An act relating to the Judiciary; implementing Article XIII [sic; should be VIII] of the Utah Constitution, known as the Judicial Article, which was passed in the 1984 General Session and approved by the voters; providing a technical effective date; and providing a severability clause, Laws of Utah, ch. 47 (1986). Passed February 26, 1986 and became effective April 28, 1986.

²⁵ Laws of Utah, ch. 47 §44 (1986).

²⁶ Laws of Utah, ch. 47 §44 (1986).

§5 The Utah Judicial System Today

§5.1 Supreme Court ²⁷

The supreme court is comprised of five justices. The chief justice is selected by majority vote of all justices.²⁸

Jurisdiction:

- Original jurisdiction to answer questions of state law certified from Federal Courts, and to issue extraordinary writs
- Appellate jurisdiction to hear first degree and capital felony convictions from the District Court, and civil judgments other than domestic cases
- Reviews formal administrative proceedings of the Public Service Commission, Tax Commission, School and Institutional Trust Lands Board of Trustees, Board of Oil, Gas, and Mining, and the State Engineer
- Jurisdiction over judgments of the Court of Appeals by writ of certiorari
- Proceedings of the Judicial Conduct Commission
- both constitutional and election questions

§5.2 Court of Appeals²⁹

There are seven judges on the Court of Appeals, and their presiding judge is selected by majority vote of all the judges³⁰ The court sits in panels of three.³¹

Jurisdiction:

- Appeals from the Juvenile and District Courts, except those from the small claims department of a District Court
- Appeals from District Court involving domestic relations cases, including divorce, annulment, property division, child custody, support, visitation, adoption and paternity, and criminal matters of less than a first degree or capital felony
- Reviews appeals of administrative proceedings by state agencies including the Utah Industrial Commission and the Department of Employment Security Career Service Review Board
- Hears cases transferred to it by the Supreme Court.

§5.3 District Court ³²

There are 70 district court judges in eight judicial districts statewide.

Jurisdiction:

- Original jurisdiction to try all civil cases, all criminal felonies, such as homicides, assaults, sex and drug offenses, forgery, arson, and robbery, and misdemeanors in certain circumstances.
- Domestic relations cases, such as divorces, child custody and support, adoption, and probate.
- District judges also have the power to issue extraordinary writs.

²⁷ Established by Utah Constitution, Article VIII, §1.

²⁸ Utah Code Ann. §78-2-1.

²⁹ Created by statute: Utah Code Ann. §78-2a-1 et seq. (1986).

³⁰ Utah Code Ann. §78-2a-2.

³¹ Utah Code Ann. §78-2a-2.

³² Created by Utah Constitution, Article VIII, §1.

- Serves as an appellate court to review informal adjudicative proceedings from administrative agencies.

§5.3.1 Utah's judicial districts

First: Box Elder, Cache and Rich Counties
 Second: Weber, Davis and Morgan Counties
 Third: Salt Lake, Summit and Tooele Counties
 Fourth: Utah Wasatch, Juab and Millard Counties
 Fifth: Beaver, Iron and Washington Counties
 Sixth: Garfield, Kane, Piute, Sanpete, Sevier and Wayne Counties
 Seventh: Carbon, Emery, Grand and San Juan Counties
 Eighth: Daggett, Duchesne and Uintah Counties

§5.4 Juvenile Court³³

The juvenile court was created by statute in 1905, and placed under the governance of the executive branch.³⁴ The Juvenile Court Act of 1965 created an independent juvenile court within the judicial branch that would have equal status with the state's district courts.³⁵ The laws pertaining to juvenile courts were completely revised in 1996.³⁶

Jurisdiction:

- Exclusive original jurisdiction over youths, under 18 years of age, who violate any federal, state or municipal law, and any child who is abused, neglected or dependent.
- Power to determine child custody, support and visitation in some circumstances; to permanently terminate parental rights, and to authorize or require treatment for mentally ill or retarded children.
- May place children under the supervision of the court's probation department; place children in the custody or care of foster homes, group homes, special treatment centers, or secure institutions.
- Works closely with the Office of Guardian ad Litem on cases involving abuse, neglect or dependency.
- May require children to pay fines or make restitution for damage or loss resulting from their delinquent acts.
- Jurisdiction over habitual truants, runaways and ungovernable youth if efforts by other social service agencies are not successful.
- Exclusive jurisdiction in traffic offenses involving minors related to automobile homicide, driving under the influence of alcohol or drugs, reckless driving, joy riding, and fleeing a police officer.
- Concurrent jurisdiction with the District and Justice Courts over adults contributing to the delinquency and neglect of a minor.

³³ For more information about the history of Utah's juvenile court system, see Arthur G. Christean, *The Events Leading to the Establishment of Utah's Independent Juvenile Court*, and E.F. Ziegler, *The Utah Juvenile Court in Transition, 1852-1968*, both published in *Utah Juvenile Court: Guidelines for Practice and Procedure*. Salt Lake City: The Administrative Office of the Utah State Juvenile Court. 1976.

³⁴ Laws of Utah ch. 117 (1905).

³⁵ Laws of Utah, ch. 165 (1965).

³⁶ Laws of Utah, ch. 1 (1996).

§5.5 Justice Courts³⁷

Justice courts are established by towns, cities or counties. Justice courts are not courts of record, which means they do not record their proceedings, either electronically or by court reporter. Justice court judges are not required to be attorneys.³⁸

Jurisdiction:

- Class B and C misdemeanors
- Violations of ordinances
- Small claims
- Infractions committed within their territorial jurisdiction

§6 Secondary Sources

§6.1 Courts Generally

Thomas G. Alexander, *The Utah Federal Courts and the Areas of Conflict, 1850-1896* (1961) (unpublished MS Thesis, Utah State University).

James B. Allen, *The Unusual Jurisdiction of County Probate Courts in the Territory of Utah*, 36 Utah Hist. Q. 132 (1968)

Martha Sonntag Bradley, *Reclamation of Young Citizens: Reform of Utah's Juvenile Legal System, 1888-1910*, 51 Utah Hist. Q. 308 (1983)

Arthur G. Christean, *The Events Leading to the Establishment of Utah's Independent Juvenile Court*, published in *Utah Juvenile Court: Guidelines for Practice and Procedure*. Salt Lake City: The Administrative Office of the Utah State Juvenile Court. 1976.

Arthur G. Christean, *The Noble Quest: The Story of the Juvenile Court in Utah* (1999).

J. Allan Crockett, *The Supreme Court of Utah*, 13 Utah Bar J. 17 (Spring-Summer 1985)

W.W. Davis, *Western Justice: The Court at Fort Bridger*, 23 Utah Hist. Q. 99 (1955)

David Epperson, *Practicing Law in the Utah Territory: A Historical Sketch*, 9 Utah Bar J. 12 (May 1996)

Regnal W. Garff, *The Emancipation of the Juvenile Court, 1957-65*, 61 Utah Hist. Q. 269 (1993)

Elizabeth D. Gee, *Justice for All or for the "Elect?": The Utah County Probate Court, 1855-72*, 48 Utah Hist. Q. 129 (1980)

Kent R. Hart, *Court Rulemaking in Utah Following the 1985 Revision of the Utah Constitution*, 1992 Utah L. Rev. 153 (1992)

Michael W. Homer, *The Judiciary and the Common Law in Utah: A Centennial Celebration*, 9 Utah Bar J. 13 (Aug/Sept 1996)

³⁷ Established by statute: Utah Code Ann. §78-5-101 et seq. (1986).

³⁸ Utah Constitution, Article VIII §11 and Utah Code Ann. §78-5-137(3).

- Michael W. Homer, *The Judiciary and the Common Law in Utah Territory, 1850-1861*, 21 Dialogue 97 (1988)
- J.A. Howell, *History of the District Court Holden in Weber County (Prior to Statehood)*, 8 Utah Bar Bull. 75 (July-Aug. 1938)
- Norman H. Jackson, *The Fifth Anniversary of the Utah Court of Appeals*, 5 Utah Bar J. 18 (April 1992)
- Norman H. Jackson, *Tenth Anniversary of the Utah Court of Appeals*, 10 Utah Bar J. 19 (March 1997)
- Norman H. Jackson, *15th Anniversary of the Utah Court of Appeals*, 15 Utah Bar J. 41 (March 2002)
- Milo Steven Marsden, *The Utah Supreme Court and the Utah State Constitution*, 1986 Utah L. Rev. 319 (1986)
- Gary O. McKean, *The Coming of Statehood to Utah and its Effect on the Legal System* (1990). Master's Thesis, Utah State University.
- John Nebeker, *Early Justice in Utah*, 3 Utah Hist. Q. 87 (1930)
- Robes for the Justices: Editorial from the Salt Lake Telegram*, 8 Utah Bar Bull. 36 (March-April 1938)
Editorial on the decision of the Utah supreme court justices to begin wearing robes on the bench.
- Roger Roper, *County Courthouses of Utah – A Photographic Essay*, 61 Utah Hist. Q. 258 (1993)
- Seven Judges Appointed to Utah's New Court of Appeals*, Utah Bar Letter 6 (December 1986)
Russell W. Bench, Judith M. Billings, Richard C. Davidson, Regnal W. Garff, Pamela R.T. Greenwood, Norman H. Jackson, Gregory K. Orme.
- Supreme Court Clerk Retires*, Utah Bar Letter 4 (June 1974)
Lee Cummings, clerk of the supreme court since 1928, retires in 1974.
- Don V. Tibbs, *An Affair with a Flag*, 61 Utah Hist. Q. 280 (1993)
Judge Tibbs' recollection of the case of *Cram v. Cram*.
- Robert Lee Warthen, *Legal Research in the State of Deseret and the Utah Territory, 1847-1896*, published in Michael Chiorazzi & Maguerite Most, editors, *Prestatehood Legal Materials: a Fifty-State Research Guide, including New York City and the District of Columbia*, Binghamton: Haworth Information Press, 2005.
- Jean Bickmore White, *The Utah State Constitution: A Reference Guide*. Westport: Greenwood Press, 1998.
Article VIII, Judicial Department begins on page 106.
Section by section analysis of the current judicial article, with notes about the changes effected by the 1984 revision.

E.F. Ziegler, *The Utah Juvenile Court in Transition, 1852-1968*, published in *Utah Juvenile Court: Guidelines for Practice and Procedure*. Salt Lake City: The Administrative Office of the Utah State Juvenile Court. 1976.

§6.2 Judicial Article Revision

Alexander B. Aikman, *The Utah Appellate System: A Review*. San Francisco: National Center for State Courts, 1985.

Second study of Utah's appellate system by the NCSC, commissioned by the Governor's Task Force on the Judicial Article to update the 1977 study.

A Blueprint for Reform of the Utah Judicial System. Salt Lake City: The Task Force, 1985.

Executive summary of the Governor's Task Force on the Judicial Article's recommendations for improving the Utah judicial system.

Governor's Task Force on the Judicial Article: Report Prepared for the Honorable Norman H. Bangerter. Salt Lake City: Governor's Task Force on the Judicial Article, 1985.

Survey of the issues facing the judiciary with the passage of the revision of the Judicial article of the constitution, brainstormed alternative solutions, and resolve issues and make recommendations.

Jon M. Memmott, *Key Questions on Constitutional Amendments: Judicial, Education, Legislative*. Salt Lake City: Office of Legislative Research and General Counsel, 1984.

Briefing paper for legislators about the proposed constitutional amendments.

Dallin H. Oaks, *An Intermediate Appellate Court for Utah*, 11 Utah Bar J. 3 (1983)

Justice Oaks proposes a plan for an intermediate appellate court.

Report of the Constitutional Revision Commission: submitted to the Governor and the 44th Legislature of the State of Utah. Salt Lake City: Office of Legislative Research and General Counsel, 1982.

Includes background of the proposed constitutional revision to the Judicial Article which was subsequently rejected by the voters.

Report of the Constitutional Revision Commission: submitted to the Governor and the 45th Legislature of the State of Utah. Salt Lake City: Office of Legislative Research and General Counsel, 1984.

Includes background, comparative overview, and section-by-section analysis of the proposed constitutional revision to the Judicial Article.

Larry L. Sipes, *Utah Supreme Court Project Report*. San Francisco: National Center for State Courts, 1977.

Study commissioned by the supreme court perform a "comprehensive analysis of the appellate system of Utah." From introduction to report.

William C. Vickrey and Timothy M. Shea, *House Bill 100 and the Utah Court of Appeals: A Blueprint for Judicial Reform*, 13 Utah Bar J. 1 (Fall-Winter 1985)