

The Law and You

Utah's Court and Judges

A lot of national attention has recently been focused on the United States Supreme Court. In September 2005, John Roberts was confirmed by the US Senate and sworn in as the 17th Chief Justice of the U.S. Supreme Court.

And now Harriet Miers is being considered to replace Justice Sandra Day O'Connor, who is retiring.

But what about the courts and judges in Utah? How do the courts function and how are judges selected?

There are five kinds of courts in the State of Utah.

At the first level, we have the Justice Courts. The Legislature has authorized 28 municipalities to organize justice courts.

Municipalities appoint justice court judges. They must be at least 25 years of age, a resident of the State of Utah for at least 3 years, and citizen of the United States. While justice court judges do not have to have a law degree, they must be at least a high school graduate or equivalent.

Justice courts have jurisdiction over violations of ordinances, class B and C misdemeanors, and infractions committed within their territorial jurisdiction. Felonies are not within the jurisdiction of justice courts.

Justice courts may also hear small claims cases within their territorial jurisdiction.

Next we have Juvenile Courts. There are 8 juvenile districts throughout the State, with 27 judges authorized for them.

These courts have jurisdiction over cases involving minors who commit crimes or who are abused. They also have jurisdiction over adults where the children of such adults are the subject of litigation, including the termination of a parent-child relationship.

There are numerous other kinds of related cases that fall within the jurisdiction of juvenile courts but there is not sufficient space here to discuss all of them.

The largest group of courts consists of the District Courts. Again, we have 8 districts in the State, with 70 judges authorized by statute.

The district courts have general jurisdiction, including appellate review of justice court rulings and small claims cases.

There are two appellate courts. There is the Utah Court of Appeals and the Supreme Court.

Generally, an appeal from a district court is taken to the Supreme Court. However, the Supreme Court may, and often does, transfer the appeal to the Court of Appeals. The decision whether to transfer a particular appeal to the Court of Appeals rests solely with the Supreme Court.

The Supreme Court also may review rulings made by the Court of Appeals through a process known as a "writ of certiorari."

The Court of Appeals has 7 judges. The Supreme Court has 5 "justices." The term "justice" is applied to the highest court in the State in a similar manner as that term is used for the justices of the United States Supreme Court.

Qualifications for justices are slightly different from judges.

Supreme Court justices must be at least 30 years old, United States citizens, Utah residents for five years preceding selection, and admitted to practice law in Utah.

Judges of all other courts, except justice courts, must be at least 25 years old, United States citizens, Utah residents for three years preceding selection, and admitted to practice law in Utah.

When a vacancy occurs, the governor appoints a judge from a list of at least three nominees sent to the governor by the Judicial Nominating Commission. In actual practice, 5 nominees are generally sent to the governor.

Like federal appointments to the bench, the Utah Senate must approve each of the governor's appointments. If the Utah Senate fails to approve the appointment within 60 days of the appointment, the office is considered to be vacant and a new nominating process must be commenced.

Unlike federal judges, Utah's judges are not appointed for life. Instead, each judge is subject to an unopposed retention election every 6 years. Supreme Court justices stand for retention every 10 years.

These retention elections are unusual in that that they are "unopposed retention elections." That is, nobody is permitted to run against the judge or justice in the retention election. Since this system became effective about 20 years ago, it appears that only one judge was not reelected.

Hopefully this information will be enlightening to those of you who follow the goings on of our state and national courts.

If you have further questions or interest about our courts and judges, you can also search the Utah Courts' Website at www.utcourts.gov. There is a lot of information found there, including biographies of all judges and justices.