

Brady Brammer proposes the following substitute bill:

Judicial Performance Evaluation Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

House Sponsor:

LONG TITLE

General Description:

This bill makes changes related to the Judicial Performance Evaluation Commission.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ renumbers and reorganizes statutory provisions in Title 78A, Chapter 12, Judicial Performance Evaluation Commission;
- ▶ addresses the requirements for a meeting of the Judicial Performance Evaluation Commission (Commission);
- ▶ requires the Commission to perform a study regarding reversal on appeal and provide a report to the Judiciary Interim Committee on the study;
- ▶ requires the Commission to allow a judge to appear and speak at a commission meeting in certain circumstances;
- ▶ modifies the requirements for the judicial performance survey, including the contents of the survey;
- ▶ modifies the certification standards for judicial performance, including the certification standards for a justice of the Utah Supreme Court and a judge of the Utah Court of Appeals; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 29 **63G-2-305**, as last amended by Laws of Utah 2025, First Special Session, Chapter 17
- 30 **78A-12-102**, as last amended by Laws of Utah 2022, Chapter 11
- 31 **78A-12-203**, as last amended by Laws of Utah 2022, Chapter 11
- 32 **78A-12-204**, as last amended by Laws of Utah 2017, Chapters 81, 374
- 33 **78A-12-205**, as last amended by Laws of Utah 2022, Chapter 11

34 ENACTS:

- 35 **78A-12-105**, Utah Code Annotated 1953
- 36 **78A-12-106**, Utah Code Annotated 1953

37 RENUMBERS AND AMENDS:

- 38 **78A-12-103**, (Renumbered from 78A-12-201, as last amended by Laws of Utah 2025,
- 39 Chapter 57)
- 40 **78A-12-104**, (Renumbered from 78A-12-202, as last amended by Laws of Utah 2010,
- 41 Chapter 286)

42 REPEALS:

- 43 **78A-12-101**, as enacted by Laws of Utah 2008, Chapter 248

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

46 Section 1. Section **63G-2-305** is amended to read:

47 **63G-2-305 . Protected records.**

48 The following records are protected if properly classified by a governmental entity:

- 49 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has
- 50 provided the governmental entity with the information specified in Section 63G-2-309;
- 51 (2) commercial information or nonindividual financial information obtained from a person
- 52 if:
 - 53 (a) disclosure of the information could reasonably be expected to result in unfair
 - 54 competitive injury to the person submitting the information or would impair the
 - 55 ability of the governmental entity to obtain necessary information in the future;
 - 56 (b) the person submitting the information has a greater interest in prohibiting access than
 - 57 the public in obtaining access; and
 - 58 (c) the person submitting the information has provided the governmental entity with the
 - 59 information specified in Section 63G-2-309;
- 60 (3) commercial or financial information acquired or prepared by a governmental entity to
- 61 the extent that disclosure would lead to financial speculations in currencies, securities, or
- 62 commodities that will interfere with a planned transaction by the governmental entity or

- 63 cause substantial financial injury to the governmental entity or state economy;
- 64 (4) records, the disclosure of which could cause commercial injury to, or confer a
65 competitive advantage upon a potential or actual competitor of, a commercial project
66 entity as defined in Subsection 11-13-103(4);
- 67 (5) test questions and answers to be used in future license, certification, registration,
68 employment, or academic examinations;
- 69 (6) records, the disclosure of which would impair governmental procurement proceedings
70 or give an unfair advantage to any person proposing to enter into a contract or agreement
71 with a governmental entity, except, subject to Subsections (1) and (2), that this
72 Subsection (6) does not restrict the right of a person to have access to, after the contract
73 or grant has been awarded and signed by all parties:
- 74 (a) a bid, proposal, application, or other information submitted to or by a governmental
75 entity in response to:
- 76 (i) an invitation for bids;
- 77 (ii) a request for proposals;
- 78 (iii) a request for quotes;
- 79 (iv) a grant; or
- 80 (v) other similar document; or
- 81 (b) an unsolicited proposal, as defined in Section 63G-6a-712;
- 82 (7) information submitted to or by a governmental entity in response to a request for
83 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not
84 restrict the right of a person to have access to the information, after:
- 85 (a) a contract directly relating to the subject of the request for information has been
86 awarded and signed by all parties; or
- 87 (b)(i) a final determination is made not to enter into a contract that relates to the
88 subject of the request for information; and
- 89 (ii) at least two years have passed after the day on which the request for information
90 is issued;
- 91 (8) records that would identify real property or the appraisal or estimated value of real or
92 personal property, including intellectual property, under consideration for public
93 acquisition before any rights to the property are acquired unless:
- 94 (a) public interest in obtaining access to the information is greater than or equal to the
95 governmental entity's need to acquire the property on the best terms possible;
- 96 (b) the information has already been disclosed to persons not employed by or under a

- 97 duty of confidentiality to the entity;
- 98 (c) in the case of records that would identify property, potential sellers of the described
99 property have already learned of the governmental entity's plans to acquire the
100 property;
- 101 (d) in the case of records that would identify the appraisal or estimated value of
102 property, the potential sellers have already learned of the governmental entity's
103 estimated value of the property; or
- 104 (e) the property under consideration for public acquisition is a single family residence
105 and the governmental entity seeking to acquire the property has initiated negotiations
106 to acquire the property as required under Section 78B-6-505;
- 107 (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated
108 transaction of real or personal property including intellectual property, which, if
109 disclosed prior to completion of the transaction, would reveal the appraisal or estimated
110 value of the subject property, unless:
- 111 (a) the public interest in access is greater than or equal to the interests in restricting
112 access, including the governmental entity's interest in maximizing the financial
113 benefit of the transaction; or
- 114 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
115 the value of the subject property have already been disclosed to persons not
116 employed by or under a duty of confidentiality to the entity;
- 117 (10) records created or maintained for civil, criminal, or administrative enforcement
118 purposes or audit purposes, or for discipline, licensing, certification, or registration
119 purposes, if release of the records:
- 120 (a) reasonably could be expected to interfere with investigations undertaken for
121 enforcement, discipline, licensing, certification, or registration purposes;
- 122 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
123 proceedings;
- 124 (c) would create a danger of depriving a person of a right to a fair trial or impartial
125 hearing;
- 126 (d) reasonably could be expected to disclose the identity of a source who is not generally
127 known outside of government and, in the case of a record compiled in the course of
128 an investigation, disclose information furnished by a source not generally known
129 outside of government if disclosure would compromise the source; or
- 130 (e) reasonably could be expected to disclose investigative or audit techniques,

- 131 procedures, policies, or orders not generally known outside of government if
132 disclosure would interfere with enforcement or audit efforts;
- 133 (11) records the disclosure of which would jeopardize the life or safety of an individual;
- 134 (12) records the disclosure of which would jeopardize the security of governmental
135 property, governmental programs, or governmental recordkeeping systems from
136 damage, theft, or other appropriation or use contrary to law or public policy;
- 137 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
138 facility, or records relating to incarceration, treatment, probation, or parole, that would
139 interfere with the control and supervision of an offender's incarceration, treatment,
140 probation, or parole;
- 141 (14) records that, if disclosed, would reveal recommendations made to the Board of
142 Pardons and Parole by an employee of or contractor for the Department of Corrections,
143 the Board of Pardons and Parole, or the Department of Health and Human Services that
144 are based on the employee's or contractor's supervision, diagnosis, or treatment of any
145 person within the board's jurisdiction;
- 146 (15) records and audit workpapers that identify audit, collection, and operational procedures
147 and methods used by the State Tax Commission, if disclosure would interfere with
148 audits or collections;
- 149 (16) records of a governmental audit agency relating to an ongoing or planned audit until
150 the final audit is released;
- 151 (17) records that are subject to the attorney client privilege;
- 152 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
153 employee, or agent of a governmental entity for, or in anticipation of, litigation or a
154 judicial, quasi-judicial, or administrative proceeding;
- 155 (19)(a)(i) personal files of a state legislator, including personal correspondence to or
156 from a member of the Legislature; and
- 157 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
158 legislative action or policy may not be classified as protected under this section;
159 and
- 160 (b)(i) an internal communication that is part of the deliberative process in connection
161 with the preparation of legislation between:
- 162 (A) members of a legislative body;
- 163 (B) a member of a legislative body and a member of the legislative body's staff; or
164 (C) members of a legislative body's staff; and

- 165 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
166 legislative action or policy may not be classified as protected under this section;
- 167 (20)(a) records in the custody or control of the Office of Legislative Research and
168 General Counsel, that, if disclosed, would reveal a particular legislator's
169 contemplated legislation or contemplated course of action before the legislator has
170 elected to support the legislation or course of action, or made the legislation or course
171 of action public; and
- 172 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
173 Office of Legislative Research and General Counsel is a public document unless a
174 legislator asks that the records requesting the legislation be maintained as protected
175 records until such time as the legislator elects to make the legislation or course of
176 action public;
- 177 (21) a research request from a legislator to a legislative staff member and research findings
178 prepared in response to the request;
- 179 (22) drafts, unless otherwise classified as public;
- 180 (23) records concerning a governmental entity's strategy about:
- 181 (a) collective bargaining; or
182 (b) imminent or pending litigation;
- 183 (24) records of investigations of loss occurrences and analyses of loss occurrences that may
184 be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
185 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 186 (25) records, other than personnel evaluations, that contain a personal recommendation
187 concerning an individual if disclosure would constitute a clearly unwarranted invasion
188 of personal privacy, or disclosure is not in the public interest;
- 189 (26) records that reveal the location of historic, prehistoric, paleontological, or biological
190 resources that if known would jeopardize the security of those resources or of valuable
191 historic, scientific, educational, or cultural information;
- 192 (27) records of independent state agencies if the disclosure of the records would conflict
193 with the fiduciary obligations of the agency;
- 194 (28) records of an institution of higher education defined in Section 53H-1-101 regarding
195 tenure evaluations, appointments, applications for admissions, retention decisions, and
196 promotions, which could be properly discussed in a meeting closed in accordance with
197 Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final
198 decisions about tenure, appointments, retention, promotions, or those students admitted,

- 199 may not be classified as protected under this section;
- 200 (29) records of the governor's office, including budget recommendations, legislative
201 proposals, and policy statements, that if disclosed would reveal the governor's
202 contemplated policies or contemplated courses of action before the governor has
203 implemented or rejected those policies or courses of action or made them public;
- 204 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
205 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
206 recommendations in these areas;
- 207 (31) records provided by the United States or by a government entity outside the state that
208 are given to the governmental entity with a requirement that they be managed as
209 protected records if the providing entity certifies that the record would not be subject to
210 public disclosure if retained by it;
- 211 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
212 public body except as provided in Section 52-4-206;
- 213 (33) records that would reveal the contents of settlement negotiations but not including final
214 settlements or empirical data to the extent that they are not otherwise exempt from
215 disclosure;
- 216 (34) memoranda prepared by staff and used in the decision-making process by an
217 administrative law judge, a member of the Board of Pardons and Parole, or a member of
218 any other body charged by law with performing a quasi-judicial function;
- 219 (35) records that would reveal negotiations regarding assistance or incentives offered by or
220 requested from a governmental entity for the purpose of encouraging a person to expand
221 or locate a business in Utah, but only if disclosure would result in actual economic harm
222 to the person or place the governmental entity at a competitive disadvantage, but this
223 section may not be used to restrict access to a record evidencing a final contract;
- 224 (36) materials to which access must be limited for purposes of securing or maintaining the
225 governmental entity's proprietary protection of intellectual property rights including
226 patents, copyrights, and trade secrets;
- 227 (37) the name of a donor or a prospective donor to a governmental entity, including an
228 institution of higher education defined in Section 53H-1-101, and other information
229 concerning the donation that could reasonably be expected to reveal the identity of the
230 donor, provided that:
- 231 (a) the donor requests anonymity in writing;
- 232 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be

- 233 classified protected by the governmental entity under this Subsection (37); and
- 234 (c) except for an institution of higher education defined in Section 53H-1-101, the
- 235 governmental unit to which the donation is made is primarily engaged in educational,
- 236 charitable, or artistic endeavors, and has no regulatory or legislative authority over
- 237 the donor, a member of the donor's immediate family, or any entity owned or
- 238 controlled by the donor or the donor's immediate family;
- 239 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;
- 240 (39) a notification of workers' compensation insurance coverage described in Section
- 241 34A-2-205;
- 242 (40) subject to Subsections (40)(g) and (h), the following records of an institution of higher
- 243 education defined in Section 53H-1-101, which have been developed, discovered,
- 244 disclosed to, or received by or on behalf of faculty, staff, employees, or students of the
- 245 institution:
- 246 (a) unpublished lecture notes;
- 247 (b) unpublished notes, data, and information:
- 248 (i) relating to research; and
- 249 (ii) of:
- 250 (A) the institution of higher education defined in Section 53H-1-101; or
- 251 (B) a sponsor of sponsored research;
- 252 (c) unpublished manuscripts;
- 253 (d) creative works in process;
- 254 (e) scholarly correspondence; ~~and~~
- 255 (f) confidential information contained in research proposals;
- 256 (g) this Subsection (40) may not be construed to prohibit disclosure of public
- 257 information required ~~[pursuant to]~~ in accordance with Subsection 53H-14-202(2)(a)
- 258 or (b); and
- 259 (h) this Subsection (40) may not be construed to affect the ownership of a record;
- 260 (41)(a) records in the custody or control of the Office of the Legislative Auditor General
- 261 that would reveal the name of a particular legislator who requests a legislative audit
- 262 prior to the date that audit is completed and made public; and
- 263 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 264 Office of the Legislative Auditor General is a public document unless the legislator
- 265 asks that the records in the custody or control of the Office of the Legislative Auditor
- 266 General that would reveal the name of a particular legislator who requests a

- 267 legislative audit be maintained as protected records until the audit is completed and
268 made public;
- 269 (42) records that provide detail as to the location of an explosive, including a map or other
270 document that indicates the location of:
- 271 (a) a production facility; or
272 (b) a magazine;
- 273 (43) information contained in the statewide database of the Division of Aging and Adult
274 Services created by Section 26B-6-210;
- 275 (44) information contained in the Licensing Information System described in Title 80,
276 Chapter 2, Child Welfare Services;
- 277 (45) information regarding National Guard operations or activities in support of the
278 National Guard's federal mission;
- 279 (46) records provided by any pawn or secondhand business to a law enforcement agency or
280 to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand
281 Merchandise, and Catalytic Converter Transaction Information Act;
- 282 (47) information regarding food security, risk, and vulnerability assessments performed by
283 the Department of Agriculture and Food;
- 284 (48) except to the extent that the record is exempt from this chapter [~~pursuant to~~] in
285 accordance with Section 63G-2-106, records related to an emergency plan or program, a
286 copy of which is provided to or prepared or maintained by the Division of Emergency
287 Management, and the disclosure of which would jeopardize:
- 288 (a) the safety of the general public; or
289 (b) the security of:
- 290 (i) governmental property;
291 (ii) governmental programs; or
292 (iii) the property of a private person who provides the Division of Emergency
293 Management information;
- 294 (49) records of the Department of Agriculture and Food that provides for the identification,
295 tracing, or control of livestock diseases, including any program established under Title
296 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
297 of Animal Disease;
- 298 (50) as provided in Section 26B-2-709:
- 299 (a) information or records held by the Department of Health and Human Services related
300 to a complaint regarding a provider, program, or facility which the department is

- 301 unable to substantiate; and
- 302 (b) information or records related to a complaint received by the Department of Health
303 and Human Services from an anonymous complainant regarding a provider, program,
304 or facility;
- 305 (51) unless otherwise classified as public under Section 63G-2-301 and except as provided
306 under Section 41-1a-116, an individual's home address, home telephone number, or
307 personal mobile phone number, if:
- 308 (a) the individual is required to provide the information in order to comply with a law,
309 ordinance, rule, or order of a government entity; and
- 310 (b) the subject of the record has a reasonable expectation that this information will be
311 kept confidential due to:
- 312 (i) the nature of the law, ordinance, rule, or order; and
313 (ii) the individual complying with the law, ordinance, rule, or order;
- 314 (52) the portion of the following documents that contains a candidate's residential or
315 mailing address, if the candidate provides to the filing officer another address or phone
316 number where the candidate may be contacted:
- 317 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
318 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405,
319 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;
- 320 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or
321 (c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;
- 322 (53) the name, home address, work addresses, and telephone numbers of an individual that
323 is engaged in, or that provides goods or services for, medical or scientific research that is:
- 324 (a) conducted within the state system of higher education, as described in Section
325 53H-1-102; and
326 (b) conducted using animals;
- 327 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
328 Evaluation Commission concerning an individual commissioner's vote, in relation to
329 whether a judge meets or exceeds minimum performance standards under Subsection
330 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);
- 331 (55) information collected and a report prepared by the Judicial Performance Evaluation
332 Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12,
333 Judicial Performance Evaluation Commission[-Aet], requires disclosure of, or makes
334 public, the information or report;

- 335 (56) records provided or received by the Public Lands Policy Coordinating Office in
336 furtherance of any contract or other agreement made in accordance with Section
337 63L-11-202;
- 338 (57) information requested by and provided to the 911 Division under Section 63H-7a-302;
339 (58) in accordance with Section 73-10-33:
- 340 (a) a management plan for a water conveyance facility in the possession of the Division
341 of Water Resources or the Board of Water Resources; or
- 342 (b) an outline of an emergency response plan in possession of the state or a county or
343 municipality;
- 344 (59) the following records in the custody or control of the Office of Inspector General of
345 Medicaid Services, created in Section 63A-13-201:
- 346 (a) records that would disclose information relating to allegations of personal
347 misconduct, gross mismanagement, or illegal activity of a person if the information
348 or allegation cannot be corroborated by the Office of Inspector General of Medicaid
349 Services through other documents or evidence, and the records relating to the
350 allegation are not relied upon by the Office of Inspector General of Medicaid
351 Services in preparing a final investigation report or final audit report;
- 352 (b) records and audit workpapers to the extent they would disclose the identity of a
353 person who, during the course of an investigation or audit, communicated the
354 existence of any Medicaid fraud, waste, or abuse, or a violation or suspected
355 violation of a law, rule, or regulation adopted under the laws of this state, a political
356 subdivision of the state, or any recognized entity of the United States, if the
357 information was disclosed on the condition that the identity of the person be
358 protected;
- 359 (c) before the time that an investigation or audit is completed and the final investigation
360 or final audit report is released, records or drafts circulated to a person who is not an
361 employee or head of a governmental entity for the person's response or information;
- 362 (d) records that would disclose an outline or part of any investigation, audit survey plan,
363 or audit program; or
- 364 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
365 investigation or audit;
- 366 (60) records that reveal methods used by the Office of Inspector General of Medicaid
367 Services, the fraud unit, or the Department of Health and Human Services, to discover
368 Medicaid fraud, waste, or abuse;

- 369 (61) information provided to the Department of Health and Human Services or the Division
370 of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
371 58-68-304(3) and (4);
- 372 (62) a record described in Section 63G-12-210;
- 373 (63) captured plate data that is obtained through an automatic license plate reader system
374 used by a governmental entity as authorized in Section 41-6a-2003;
- 375 (64) an audio or video recording created by a body-worn camera, as that term is defined in
376 Section 77-7a-103, that records sound or images inside a hospital or health care facility
377 as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider,
378 as that term is defined in Section 78B-3-403, or inside a human service program as that
379 term is defined in Section 26B-2-101, except for recordings that:
- 380 (a) depict the commission of an alleged crime;
- 381 (b) record any encounter between a law enforcement officer and a person that results in
382 death or bodily injury, or includes an instance when an officer fires a weapon;
- 383 (c) record any encounter that is the subject of a complaint or a legal proceeding against a
384 law enforcement officer or law enforcement agency;
- 385 (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f);
386 or
- 387 (e) have been requested for reclassification as a public record by a subject or authorized
388 agent of a subject featured in the recording;
- 389 (65) a record pertaining to the search process for a president of an institution of higher
390 education described in Section 53H-3-302;
- 391 (66) an audio recording that is:
- 392 (a) produced by an audio recording device that is used in conjunction with a device or
393 piece of equipment designed or intended for resuscitating an individual or for treating
394 an individual with a life-threatening condition;
- 395 (b) produced during an emergency event when an individual employed to provide law
396 enforcement, fire protection, paramedic, emergency medical, or other first responder
397 service:
- 398 (i) is responding to an individual needing resuscitation or with a life-threatening
399 condition; and
- 400 (ii) uses a device or piece of equipment designed or intended for resuscitating an
401 individual or for treating an individual with a life-threatening condition; and
- 402 (c) intended and used for purposes of training emergency responders how to improve

- 403 their response to an emergency situation;
- 404 (67) records submitted by or prepared in relation to an applicant seeking a recommendation
405 by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the
406 Legislative Audit Subcommittee, established under Section 36-12-8, for an employment
407 position with the Legislature;
- 408 (68) work papers as defined in Section 31A-2-204;
- 409 (69) a record made available to Adult Protective Services or a law enforcement agency
410 under Section 61-1-206;
- 411 (70) a record submitted to the Insurance Department in accordance with Section
412 31A-37-201;
- 413 (71) a record described in Section 31A-37-503;
- 414 (72) any record created by the Division of Professional Licensing as a result of Subsection
415 58-37f-304(5) or 58-37f-702(2)(a)(ii);
- 416 (73) a record described in Section 72-16-306 that relates to the reporting of an injury
417 involving an amusement ride;
- 418 (74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a
419 political petition, or on a request to withdraw a signature from a political petition,
420 including a petition or request described in the following titles:
- 421 (a) Title 10, Utah Municipal Code;
- 422 (b) Title 17, Counties;
- 423 (c) Title 17B, Limited Purpose Local Government Entities - Special Districts;
- 424 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
- 425 (e) Title 20A, Election Code;
- 426 (75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a
427 voter registration record;
- 428 (76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature
429 described in Subsection (74) or (75), in the custody of the lieutenant governor or a local
430 political subdivision collected or held under, or in relation to, Title 20A, Election Code;
- 431 (77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5,
432 Victims Guidelines for Prosecutors Act;
- 433 (78) a record submitted to the Insurance Department under Section 31A-48-103;
- 434 (79) personal information, as defined in Section 63G-26-102, to the extent disclosure is
435 prohibited under Section 63G-26-103;
- 436 (80) an image taken of an individual during the process of booking the individual into jail,

- 437 unless:
- 438 (a) the individual is convicted of a criminal offense based upon the conduct for which
- 439 the individual was incarcerated at the time the image was taken;
- 440 (b) a law enforcement agency releases or disseminates the image:
- 441 (i) after determining that the individual is a fugitive or an imminent threat to an
- 442 individual or to public safety and releasing or disseminating the image will assist
- 443 in apprehending the individual or reducing or eliminating the threat; or
- 444 (ii) to a potential witness or other individual with direct knowledge of events relevant
- 445 to a criminal investigation or criminal proceeding for the purpose of identifying or
- 446 locating an individual in connection with the criminal investigation or criminal
- 447 proceeding;
- 448 (c) a judge orders the release or dissemination of the image based on a finding that the
- 449 release or dissemination is in furtherance of a legitimate law enforcement interest; or
- 450 (d) the image is displayed to a person who is permitted to view the image under Section
- 451 17-72-802;
- 452 (81) a record:
- 453 (a) concerning an interstate claim to the use of waters in the Colorado River system;
- 454 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
- 455 representative from another state or the federal government as provided in Section
- 456 63M-14-205; and
- 457 (c) the disclosure of which would:
- 458 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
- 459 Colorado River system;
- 460 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
- 461 negotiate the best terms and conditions regarding the use of water in the Colorado
- 462 River system; or
- 463 (iii) give an advantage to another state or to the federal government in negotiations
- 464 regarding the use of water in the Colorado River system;
- 465 (82) any part of an application described in Section 63N-16-201 that the Governor's Office
- 466 of Economic Opportunity determines is nonpublic, confidential information that if
- 467 disclosed would result in actual economic harm to the applicant, but this Subsection (82)
- 468 may not be used to restrict access to a record evidencing a final contract or approval
- 469 decision;
- 470 (83) the following records of a drinking water or wastewater facility:

- 471 (a) an engineering or architectural drawing of the drinking water or wastewater facility;
472 and
- 473 (b) except as provided in Section 63G-2-106, a record detailing tools or processes the
474 drinking water or wastewater facility uses to secure, or prohibit access to, the records
475 described in Subsection (83)(a);
- 476 (84) a statement that an employee of a governmental entity provides to the governmental
477 entity as part of the governmental entity's personnel or administrative investigation into
478 potential misconduct involving the employee if the governmental entity:
- 479 (a) requires the statement under threat of employment disciplinary action, including
480 possible termination of employment, for the employee's refusal to provide the
481 statement; and
- 482 (b) provides the employee assurance that the statement cannot be used against the
483 employee in any criminal proceeding;
- 484 (85) any part of an application for a Utah Fits All Scholarship account described in Section
485 53F-6-402 or other information identifying a scholarship student as defined in Section
486 53F-6-401;
- 487 (86) a record:
- 488 (a) concerning a claim to the use of waters in the Great Salt Lake;
- 489 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
490 person concerning the claim, including a representative from another state or the
491 federal government; and
- 492 (c) the disclosure of which would:
- 493 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
494 Great Salt Lake;
- 495 (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms
496 and conditions regarding the use of water in the Great Salt Lake; or
- 497 (iii) give an advantage to another person including another state or to the federal
498 government in negotiations regarding the use of water in the Great Salt Lake;
- 499 (87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is
500 reclassified as public as described in Subsection 13-2-11(4);
- 501 (88) a record of the Utah water agent, appointed under Section 73-10g-702:
- 502 (a) concerning a claim to the use of waters;
- 503 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
504 representative from another state, a tribe, the federal government, or other

- 505 government entity as provided in Title 73, Chapter 10g, Part 7, Utah Water Agent;
 506 and
- 507 (c) the disclosure of which would:
- 508 (i) reveal a legal strategy relating to the state's claim to the use of the water;
- 509 (ii) harm the ability of the Utah water agent to negotiate the best terms and conditions
 510 regarding the use of water; or
- 511 (iii) give an advantage to another state, a tribe, the federal government, or other
 512 government entity in negotiations regarding the use of water; and
- 513 (89) a record created or maintained for an investigation of the Prosecutor Conduct
 514 Commission, created in Section 63M-7-1102, that contains any personal identifying
 515 information of a prosecuting attorney, including:
- 516 (a) a complaint, or a document that is submitted or created for a complaint, received by
 517 the Prosecutor Conduct Commission; or
- 518 (b) a finding by the Prosecutor Conduct Commission.

519 Section 2. Section **78A-12-102** is amended to read:

520 **CHAPTER 12. Judicial Performance Evaluation Commission**

521 **Part 1. General Provisions**

522 **78A-12-102 . Definitions for chapter.**

523 As used in this chapter:

- 524 (1) "Commission" means the Judicial Performance Evaluation Commission established [by
 525 ~~this chapter~~] in Section 78A-12-103.
- 526 (2) "Does not meet or exceed minimum performance standards" means that:
- 527 (a)(i) a judge does not meet the certification standards under Section 78A-12-205; and
- 528 (ii) the presumption, described in Subsection 78A-12-203(4)(b)(ii), that the judge
 529 does not meet or exceed minimum performance standards is not overcome by
 530 substantial countervailing evidence; or
- 531 (b) a judge meets the certification standards under Section 78A-12-205, but the
 532 presumption, described in Subsection 78A-12-203(4)(b)(i), that the judge meets or
 533 exceeds minimum performance standards is overcome by substantial countervailing
 534 evidence.
- 535 (3) [~~Except as provided in Section 78A-12-207, "judge" means~~] "Judge" means, except as
 536 provided in Section 78A-12-207, a state court judge or a state court justice who is
 537 subject to a retention election.

- 538 (4) "Justice" means a judge who is a member of the Supreme Court.
- 539 (5) "Justice court judge" means a judge appointed pursuant to Title 78A, Chapter 7, Justice
540 Court.
- 541 (6) "Meets or exceeds minimum performance standards" means that:
- 542 (a)(i) a judge meets the certification standards under Section 78A-12-205; and
543 (ii) the presumption that the judge meets or exceeds minimum performance
544 standards, described in Subsection 78A-12-203(4)(b)(i), is not overcome by
545 substantial countervailing evidence; or
- 546 (b) a judge does not meet the certification standards under Section 78A-12-205, but the
547 presumption described in Subsection 78A-12-203(4)(b)(ii), that the judge does not
548 meet or exceed minimum performance standards, is overcome by substantial
549 countervailing evidence.

550 Section 3. Section **78A-12-103**, which is renumbered from Section 78A-12-201 is renumbered
551 and amended to read:

552 **~~[78A-12-201]~~ 78A-12-103 . Judicial Performance Evaluation Commission --**
553 **Creation -- Membership.**

- 554 (1) There is created an independent commission called the Judicial Performance Evaluation
555 Commission consisting of 13 members, as follows:
- 556 (a) two members appointed by the president of the Senate, only one of whom may be a
557 member of the Utah State Bar;
- 558 (b) two members appointed by the speaker of the House of Representatives, only one of
559 whom may be a member of the Utah State Bar;
- 560 (c) four members appointed by the members of the Supreme Court, at least one of
561 whom, but not more than two of whom, may be a member of the Utah State Bar;
- 562 (d) four members appointed by the governor, at least one of whom, but not more than
563 two of whom, may be a member of the Utah State Bar; and
- 564 (e) the executive director of the State Commission on Criminal and Juvenile Justice.
- 565 (2)(a) The president of the Senate and the speaker of the House of Representatives shall
566 confer when appointing members under Subsections (1)(a) and (b) to ensure that
567 there is at least one member from among their four appointees who is a member of
568 the Utah State Bar.
- 569 (b) A sitting legislator or a sitting judge may not serve as a commission member.
- 570 (3)(a) A member appointed under Subsection (1) shall be appointed for a four-year term.
571 (b) A member may serve no more than three consecutive terms.

572 (4) At the time of appointment, the terms of commission members shall be staggered so that
573 approximately half of commission members' terms expire every two years.

574 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
575 appointed for the unexpired term by the same appointing authority that appointed the
576 member creating the vacancy.

577 [~~(6)(a) Eight members of the commission constitute a quorum.~~]

578 [~~(b) The action of a majority of the quorum constitutes the action of the commission,
579 except that the commission may not make a determination that a judge meets or
580 exceeds minimum performance standards, or that a judge does not meet or exceed
581 minimum performance standards, by a vote of less than six members.~~]

582 [~~(c) If, because of absences, the commission is unable to make a determination described
583 in Subsection (6)(b) by at least six votes, the commission may meet a second time to
584 make a determination.~~]

585 [~~(d) If a vote on the question of whether a judge meets or exceeds minimum
586 performance standards or does not meet or exceed minimum performance standards
587 ends in a tie or does not pass by at least six votes, the record shall reflect that the
588 commission made no determination in relation to that judge.~~]

589 Section 4. Section **78A-12-104**, which is renumbered from Section 78A-12-202 is renumbered
590 and amended to read:

591 **[78A-12-202] 78A-12-104 . Salary and expenses -- Staff.**

592 (1) A member may not receive compensation or benefits for the member's service, but may
593 receive per diem and travel expenses in accordance with:

594 (a) Section 63A-3-106;

595 (b) Section 63A-3-107; and

596 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
597 63A-3-107.

598 (2) The commission shall elect a chair from among ~~[its]~~ the commission's members.

599 (3) The commission shall employ an executive director and may employ additional staff as
600 necessary within budgetary constraints.

601 (4) The commission shall be located in the State Commission on Criminal and Juvenile
602 Justice.

603 Section 5. Section **78A-12-105** is enacted to read:

604 **78A-12-105 . Quorum -- Voting requirements -- Meetings.**

605 (1)(a) Eight members of the commission constitute a quorum.

- 606 (b) The action of a majority of the quorum constitutes the action of the commission,
607 except that the commission may not make a determination that a judge meets or
608 exceeds minimum performance standards, or that a judge does not meet or exceed
609 minimum performance standards, by a vote of less than six members.
- 610 (c) If, because of absences, the commission is unable to make a determination described
611 in Subsection (1)(b) by at least six votes, the commission may meet a second time to
612 make a determination.
- 613 (d) If a vote on the question of whether a judge meets or exceeds minimum performance
614 standards or does not meet or exceed minimum performance standards ends in a tie
615 or does not pass by at least six votes, the record shall reflect that the commission
616 made no determination in relation to that judge.
- 617 (2)(a) A member of the commission, including a member of the Utah State Bar, may not
618 be disqualified from voting on whether a judge meets or exceeds minimum
619 performance standards solely because the member appears before the judge as an
620 attorney, a fact witness, or an expert, unless the member is a litigant in a case pending
621 before the judge.
- 622 (b) Notwithstanding Subsection (2)(a), a member of the commission shall disclose any
623 conflicts of interest with a judge being reviewed to the other members of the
624 commission before the deliberation and vote on whether the judge meets or exceeds
625 minimum performance standards.
- 626 (c) Information disclosed under this Subsection (2) is a protected record under Title
627 63G, Chapter 2, Government Records Access and Management Act.
- 628 (3)(a) Any meeting of the commission shall comply with Title 52, Chapter 4, Open and
629 Public Meetings Act, including any electronic meeting.
- 630 (b) The commission may meet in a closed meeting to discuss a judge's judicial
631 performance evaluation by complying with Title 52, Chapter 4, Open and Public
632 Meetings Act.
- 633 (c) Notwithstanding Subsection (3)(b), any vote of the commission on whether a judge
634 meets or exceeds minimum performance standards shall occur in a meeting open to
635 the public.
- 636 (d) The commission may only disclose the final commission vote under Subsection (3)(c).
- 637 (4) Any record of an individual commissioner's vote on whether a judge meets or exceeds
638 minimum performance standards is a protected record under Title 63G, Chapter 2,
639 Government Records Access and Management Act.

640 Section 6. Section **78A-12-106** is enacted to read:

641 **78A-12-106 . Report to Judiciary Interim Committee.**

642 (1) Before October 1, 2026, the commission shall study whether the number of times that a
 643 judge is overturned on appeal for an abuse of discretion should be included in a judicial
 644 performance evaluation.

645 (2) No later than November 1, 2026, the commission shall provide a written report to the
 646 Judiciary Interim Committee regarding the outcome of the study described in Subsection
 647 (1).

648 Section 7. Section **78A-12-203** is amended to read:

649 **Part 2. Judicial Performance Evaluation**

650 **78A-12-203 . Judicial performance evaluation.**

651 (1) [~~Beginning with the 2012 judicial retention elections, the~~] The commission shall prepare
 652 a judicial performance evaluation for:

653 (a) each judge in the third and fifth year of the judge's term if the judge is not a justice of
 654 the Supreme Court; and

655 (b) each justice of the Utah Supreme Court in the third, seventh, and ninth year of the
 656 justice's term.

657 (2) [~~Except as provided in Subsection (3), the~~]

658 (a) Subject to Subsection (2)(b), the judicial performance evaluation for a judge under
 659 Subsection (1) shall consider only the following information[~~but shall give primary~~
 660 ~~emphasis to the information that is gathered and relates to the performance of the~~
 661 ~~judge during the period subsequent to the last judicial retention election of that judge~~
 662 ~~or if the judge has not had a judicial retention election, during the period applicable~~
 663 ~~to the first judicial retention election]:~~

664 [(a)] (i) the results of the judge's most recent judicial performance survey that is
 665 conducted by a third party [~~in accordance with~~] as described in Section 78A-12-204;

666 [(b)] (ii) information concerning the judge's compliance with certification standards [~~]~~
 667 ~~established in accordance with~~] described in Section 78A-12-205;

668 [(c)] (iii) courtroom observation;

669 [(d)] (iv) the judge's judicial disciplinary record, if any;

670 [(e)] (v) public comment solicited by the commission;

671 [(f)] (vi) information from an earlier judicial performance evaluation concerning the
 672 judge[~~except that the commission shall give primary emphasis to information~~
 673 ~~gathered subsequent to the last judicial retention election]; and~~

- 674 ~~[(g)]~~ (vii) any other factor that the commission:
675 ~~[(i)]~~ (A) considers relevant to evaluating the judge's performance for the purpose
676 of a retention election; and
677 ~~[(ii)]~~ (B) establishes by rule made in accordance with Title 63G, Chapter 3, Utah
678 Administrative Rulemaking Act.
- 679 (b) The judicial performance evaluation for a judge under Subsection (1) shall give
680 primary emphasis to the information that is gathered and relates to the performance
681 of the judge during:
682 (i) the period subsequent to the last judicial retention election of that judge; or
683 (ii) the period applicable to the first judicial retention election if the judge has not had
684 a judicial retention election.
- 685 (3) The commission shall, in accordance with Title 63G, Chapter 3, Utah Administrative
686 Rulemaking Act, make rules concerning the conduct of courtroom observation under
687 Subsection (2), ~~[which shall include the following]~~ including:
688 (a) an indication of who may perform the courtroom observation;
689 (b) a determination of whether the courtroom observation shall be made in person or
690 may be made by electronic means; and
691 (c) a list of principles and standards used to evaluate the behavior observed.
- 692 (4)(a) As part of ~~[the evaluation]~~ a judicial performance evaluation conducted under this
693 section, the commission shall~~[do one of the following]~~:
694 (i) determine, by a vote of at least six members, that the judge meets or exceeds
695 minimum performance standards;
696 (ii) determine, by a vote of at least six members, that the judge does not meet or
697 exceed minimum performance standards;
698 (iii) determine, by a majority vote, that the information concerning the judge is
699 insufficient to make a determination described in Subsection (4)(a)(i) or (ii); or
700 (iv) fail to make a determination described in Subsection (4)(a)(i), (ii), or (iii) by the
701 number of votes required for one of those determinations.
- 702 (b)(i) If a judge meets the certification standards established in accordance with
703 Section 78A-12-205, there is a rebuttable presumption that the judge meets or
704 exceeds minimum performance standards.
705 (ii) If a judge fails to meet the certification standards established in accordance with
706 Section 78A-12-205, there is a rebuttable presumption that the judge does not
707 meet or exceed minimum performance standards.

- 708 (c) If the commission deviates from a presumption described in Subsection (4)(b), the
 709 commission shall provide a detailed explanation of the reason for that deviation in the
 710 commission's report under Section 78A-12-206.
- 711 (d) If the commission makes the determination described in Subsection (4)(a)(iii) or fails
 712 to make a determination described in Subsection (4)(a)(i), (ii), or (iii) by the number
 713 of votes required for those determinations, the commission shall note that fact in the
 714 commission's report.
- 715 ~~(5)(a) The commission shall allow a judge who is the subject of a judicial performance~~
 716 ~~retention evaluation, and who has not passed one or more of the certification~~
 717 ~~standards on the retention evaluation, to appear and speak at any commission meeting~~
 718 ~~during which the judge's judicial performance evaluation is considered.]~~
- 719 (a) If a judge is the subject of a performance evaluation and has not passed one or more
 720 of the certification standards for that performance evaluation, the commission shall
 721 grant the judge time to appear and speak at a commission meeting during which the
 722 judge's performance evaluation will be considered.
- 723 (b) The commission may invite any judge to appear before the commission to discuss
 724 concerns about the judge's judicial performance.
- 725 ~~[(e)(i) The commission may meet in a closed meeting to discuss a judge's judicial~~
 726 ~~performance evaluation by complying with Title 52, Chapter 4, Open and Public~~
 727 ~~Meetings Act.]~~
- 728 ~~[(ii) The commission may meet in an electronic meeting by complying with Title 52,~~
 729 ~~Chapter 4, Open and Public Meetings Act.]~~
- 730 ~~[(d) Any record of an individual commissioner's vote under Subsection (4) is a protected~~
 731 ~~record under Title 63G, Chapter 2, Government Records Access and Management Act.]~~
- 732 ~~[(e)(i) A member of the commission, including a member of the Utah State Bar, may~~
 733 ~~not be disqualified from voting under Subsection (4) solely because the member~~
 734 ~~appears before the judge as an attorney, a fact witness, or an expert, unless the~~
 735 ~~member is a litigant in a case pending before the judge.]~~
- 736 ~~[(ii) Notwithstanding Subsection (5)(e)(i), a member of the commission shall disclose~~
 737 ~~any conflicts of interest with the judge being reviewed to the other members of the~~
 738 ~~commission before the deliberation and vote under Subsection (4).]~~
- 739 ~~[(iii) Information disclosed under this Subsection (5)(e) is a protected record under~~
 740 ~~Title 63G, Chapter 2, Government Records Access and Management Act.]~~
- 741 [(f) The commission may only disclose the final commission vote described in

- 742 Subsection (4).]
- 743 (6)(a) If the Utah Supreme Court issues a public sanction of a judge after the
744 commission makes or fails to make a determination described in Subsection (4), but
745 before the publication of the voter information pamphlet in accordance with Section
746 20A-7-702, the commission may elect to reconsider the commission's action.
- 747 (b) The commission shall invite the judge described in Subsection (6)(a) to appear
748 before the commission during a closed meeting for the purpose of reconsidering the
749 commission's action.
- 750 (c) The judge described in Subsection (6)(a) may provide a written statement, not to
751 exceed 100 words, that shall be included in the judge's judicial performance
752 evaluation report.
- 753 (d) The commission shall include in the judge's judicial performance evaluation report:
754 (i) the date of the reconsideration;
755 (ii) any change in the action of the commission; and
756 (iii) a brief statement explaining the reconsideration.
- 757 (e) The commission shall:
758 (i) submit revisions to the judge's judicial performance evaluation report to the
759 lieutenant governor by no later than August 31 of a regular general election year
760 for publication in the voter information pamphlet~~[, and]~~ ; and
761 (ii) publish the revisions on the commission's website, and through any other means
762 the commission considers appropriate and within budgetary constraints.
- 763 (7)(a) The commission shall compile a midterm report of the commission's judicial
764 performance evaluation of a judge.
- 765 (b) The midterm report of a judicial performance evaluation shall include information
766 that the commission considers appropriate for purposes of judicial self-improvement.
- 767 (c)(i) The report shall be provided to the evaluated judge, the presiding judge of the
768 district in which the evaluated judge serves, and the Judicial Council.
- 769 (ii) If the evaluated judge is the presiding judge, the midterm report shall be provided
770 to the chair of the board of judges for the court level on which the evaluated judge
771 serves.
- 772 (d)(i) The commission may provide a partial midterm evaluation to a judge whose
773 appointment date precludes the collection of complete midterm evaluation data.
- 774 (ii) For a newly appointed judge, a midterm evaluation is considered partial when the
775 midterm evaluation is missing a respondent group, including attorneys, court staff,

776 court room observers, or intercept survey respondents.
 777 (iii) A judge who receives partial midterm evaluation data may receive a statement in
 778 acknowledgment of that fact on the judge's voter information pamphlet page.
 779 (iv) On or before the beginning of the retention evaluation cycle, the commission
 780 shall inform the Judicial Council of the name of any judge who receives a partial
 781 midterm evaluation.

782 (8) The commission shall identify a judge whose midterm evaluation:
 783 (a) fails to meet certification standards in accordance with Section 78A-12-205 or as
 784 established by rule; or
 785 (b) otherwise demonstrates to the commission that the judge's performance would be of
 786 such concern if the performance occurred in a retention evaluation that the judge
 787 would be invited to appear before the commission in accordance with Subsection
 788 (5)(b).

789 (9) The commission may make rules in accordance with Title 63G, Chapter 3, Utah
 790 Administrative Rulemaking Act, as necessary to administer the evaluation required by
 791 this section.

792 Section 8. Section **78A-12-204** is amended to read:

793 **78A-12-204 . Judicial performance survey.**

794 (1) A third party under contract to the commission shall conduct, on an ongoing basis
 795 during the judge's term in office, the judicial performance survey required by Section
 796 78A-12-203 concerning a judge who is subject to a retention election.

797 (2)(a) The judicial performance survey shall include as respondents a sample of each of
 798 the following groups as applicable:

799 (i) attorneys who have appeared before the judge as counsel;
 800 (ii) jurors who have served in a case before the judge; ~~and~~
 801 (iii) court staff who have worked with the judge ~~;~~ and
 802 (iv) to the extent practical, individuals who have appeared before the judge as a party
 803 in a case.

804 (b) Only a respondent under Subsection (2)(a)(i) who is admitted to practice law in the
 805 state and in good standing with the Utah State Bar may evaluate a judge's legal [
 806 ability] competence under Subsection (7)(a).

807 (3) The commission may include an additional classification of respondents if the
 808 commission:

809 (a) considers a judicial performance survey of that classification of respondents helpful

- 810 to voters in determining whether to vote to retain a judge; and
- 811 (b) establishes the additional classification of respondents by rule.
- 812 (4) All survey responses for a judicial performance survey are confidential, including
- 813 comments included with a survey response.
- 814 (5) If the commission provides information to a judge or the Judicial Council, the
- 815 commission shall provide the information in such a way as to protect the anonymity of a
- 816 survey respondent.
- 817 [~~(6) A survey shall be provided to a potential survey respondent within 30 days of the day~~
- 818 ~~on which the case in which the person appears in the judge's court is closed, exclusive of~~
- 819 ~~any appeal, except for court staff and attorneys, who may be surveyed at any time during~~
- 820 ~~the survey period.]~~
- 821 (6) A judicial performance survey shall be provided to a potential survey respondent:
- 822 (a) if the potential survey respondent is court staff or an attorney, at any time during the
- 823 survey period;
- 824 (b) if the potential survey respondent is a juror, within 30 days after the verdict is
- 825 reached; and
- 826 (c) if the potential survey respondent is an individual who appeared before the judge as a
- 827 party and to the extent practical, within 90 days after the day on which the case is
- 828 closed excluding any time for an appeal.
- 829 (7) [~~Survey categories shall include questions concerning a judge's~~] A judicial performance
- 830 survey shall provide a survey respondent with the ability to evaluate:
- 831 (a) [~~legal ability, including the following~~] a judge's legal competence, including:
- 832 (i) [~~demonstration of~~] demonstrated understanding of the substantive law and any
- 833 relevant rules of procedure and evidence;
- 834 (ii) attentiveness to factual and legal issues before the court;
- 835 (iii) adherence to precedent and ability to clearly explain departures from precedent;
- 836 and
- 837 (iv) [~~grasp~~] awareness of the practical impact on the parties of the judge's rulings,
- 838 including the effect of delay and increased litigation expense;
- 839 [~~(v) ability to write clear judicial opinions; and~~]
- 840 [~~(vi) ability to clearly explain the legal basis for judicial opinions;~~]
- 841 (b) a judge's impartiality, including:
- 842 (i) absence of bias or prejudice based on race, sex, religion, national origin, disability,
- 843 age, sexual orientation, political affiliation, socioeconomic status, legal

- 844 representation, or mental health or competency;
- 845 (ii) demonstrated fairness and neutrality towards all parties;
- 846 (iii) consideration given to all arguments and viewpoints before rendering a final
- 847 decision; and
- 848 (iv) respect and dignified treatment, given equally and without favoritism, towards
- 849 attorneys, court staff, and all other individuals appearing before the judge;
- 850 (c) a judge's ability to communicate clearly, including:
- 851 (i) ability to write clear judicial opinions or decisions, findings of fact, conclusions of
- 852 law, and other orders;
- 853 (ii) ability to write a clear factual and legal basis for judicial opinions and decisions;
- 854 and
- 855 (iii) demonstrated ability to adapt the judge's communication style, including the use
- 856 of plain language, when needed to communicate with specific individuals, parties,
- 857 or audiences;
- 858 ~~(b)~~ (d) the judge's judicial temperament~~[and integrity, including the following] ,~~
- 859 including:
- 860 (i) ~~[demonstration of]~~ demonstrated courtesy toward attorneys, court staff, and others
- 861 in the judge's court;
- 862 ~~[(ii) maintenance of decorum in the courtroom;]~~
- 863 ~~[(iii)]~~ (ii) ~~[demonstration of]~~ the ability to maintain judicial demeanor and personal
- 864 attributes that promote public trust and confidence in the judicial system;
- 865 ~~[(iv) preparedness for oral argument;]~~
- 866 (iii) ability to maintain courtroom decorum;
- 867 ~~[(v)]~~ (iv) avoidance of impropriety or the appearance of impropriety; and
- 868 (v) attentiveness towards the proceedings and all parties; and
- 869 ~~[(vi) display of fairness and impartiality toward all parties; and]~~
- 870 ~~[(vii) ability to clearly communicate, including the ability to explain the basis for~~
- 871 written rulings, court procedures, and decisions; and]
- 872 ~~(e)~~ (e) administrative ~~[performance, including the following]~~ capacity, including:
- 873 ~~[(i) management of workload;]~~
- 874 ~~[(ii) sharing proportionally the workload within the court or district; and]~~
- 875 ~~[(iii) issuance of opinions and orders without unnecessary delay.]~~
- 876 (i) effective management of workload and the competent use of technology necessary
- 877 to manage cases, court filings, and otherwise discharge judicial duties;

- 878 (ii) timely issuance of opinions, orders, and other judicial rulings without
 879 unnecessary delay; and
 880 (iii) ability to set clear expectations and timelines and to regularly monitor cases and
 881 streamline procedures.

882 (8) If the commission determines that a certain survey question or category of questions is
 883 not appropriate for a respondent group, the commission may omit that question or
 884 category of questions from the judicial performance survey provided to that respondent
 885 group.

886 [~~(9)(a) The survey shall allow respondents to indicate responses in a manner determined~~
 887 ~~by the commission, which shall be:]~~

888 ~~[(i) on a numerical scale from one to five; or]~~

889 ~~[(ii) in the affirmative or negative, with an option to indicate the respondent's~~
 890 ~~inability to respond in the affirmative or negative.]~~

891 ~~[(b)(i) To supplement the responses to questions on either a numerical scale or in the~~
 892 ~~affirmative or negative, the commission may allow respondents to provide written~~
 893 ~~comments.]~~

894 ~~[(ii) The executive director may not provide the commission a comment that would~~
 895 ~~be prohibited in relation to taking an employment action under federal or state law.]~~

896 (9) The commission may formulate questions that allow survey respondents to provide
 897 responses through various means, including the ability to:

898 (a) rank individuals and activities on a numerical scale;

899 (b) evaluate judicial performance using affirmative or negative responses, including the
 900 option to indicate the respondent's inability to respond in the affirmative or negative;

901 (c) answer nonrestrictive questions that explain or expand upon the survey categories
 902 described in Subsection (7) by providing additional written comments; and

903 (d) supplement answers that rank individuals or activities based on a numerical scale or
 904 that call for an affirmative or negative answer by allowing a survey respondent to
 905 comment in writing.

906 (10) The executive director may not provide the commission with any response that would
 907 be prohibited in relation to taking an employment action under federal or state law.

908 [~~(10)~~] (11) The commission shall compile and make available to each judge that judge's
 909 judicial performance survey results with each of the judge's judicial performance
 910 evaluations.

911 [~~(11)~~] (12) The commission may make rules in accordance with Title 63G, Chapter 3, Utah

912 Administrative Rulemaking Act, as necessary to administer the judicial performance
913 survey.

914 Section 9. Section **78A-12-205** is amended to read:

915 **78A-12-205 . Certification standards.**

916 (1) As used in this section:

917 (a) "Opinions" means the decisions authored by a judge for the calendar year.

918 (b) "Submission" means the later of the day on which:

919 (i) staff placed a matter in the case needing a decision from the court in the judge's
920 personal electronic queue or inbox, personal possession, or any other equivalent;

921 (ii) if a hearing or oral argument is set for a matter in the case, the hearing or oral
922 argument concluded; or

923 (iii) if further briefing is required in the case after a hearing or oral argument, all
924 briefing is completed, a request to submit is filed, or the matter is placed in the
925 judge's personal electronic queue or inbox, personal possession, or any other
926 equivalent.

927 [(4)] (2) The commission shall establish certification standards requiring that:

928 (a) the judge have no more than one public sanction issued by the [~~Utah~~]Supreme Court
929 during the judge's current term; and

930 (b) the judge receive a minimum score on the judicial performance survey as follows:

931 (i) an average score of no less than 65% on each survey category as provided in
932 Subsection 78A-12-204(7); and

933 (ii) if the commission includes a question on the survey that does not use the
934 numerical scale, [~~the commission shall establish the certification standard for all~~
935 ~~questions that do not use the numerical scale to be substantially equivalent]~~ a
936 substantial equivalent to the standard required under Subsection [(1)(b)(i)] (2)(b)(i).

937 (3) In addition to Subsection (2), the commission shall establish certification standards for a
938 judge of the Supreme Court or Court of Appeals that address timely management of the
939 judge's caseload, including:

940 (a) for a justice of the Supreme Court, a certification standard that requires the justice to
941 have distributed to other members of the Supreme Court:

942 (i) no more than 25% of opinions more than 150 days after submission;

943 (ii) no more than 10% of opinions more than 210 days after submission; and

944 (iii) 100% of all opinions within one year after submission; and

945 (b) for a judge of the Court of Appeals, a certification standard that requires the judge to

946 have distributed to other members of a Court of Appeals' panel:
947 (i) no more than 25% of opinions more than 120 days after submission;
948 (ii) no more than 10% of opinions more than 180 days after submission; and
949 (iii) 100% of all opinions within 270 days after submission.

950 [~~2~~] (4) The commission may establish an additional certification standard if the
951 commission by at least two-thirds vote:
952 (a) determines that satisfaction of the standard is necessary to the satisfactory
953 performance of the judge; and
954 (b) adopts the standard.

955 [~~3~~] (5) The commission may make rules in accordance with Title 63G, Chapter 3, Utah
956 Administrative Rulemaking Act, to establish a certification standard.

957 **Section 10. Repealer.**
958 This bill repeals:
959 **Section 78A-12-101, Title.**

960 **Section 11. Effective Date.**
961 This bill takes effect on May 6, 2026.