

IN THE SUPREME COURT OF THE STATE OF UTAH

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In re: Proposed Amendments  
to Rules 11-201 and 11-203  
of the GENERAL PROVISIONS to the  
SUPREME COURT RULES OF PROFESSIONAL PRACTICE

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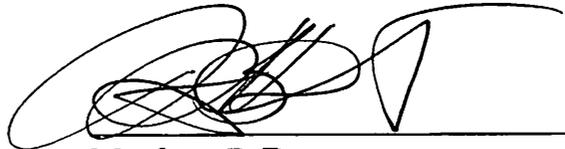
**ORDER**

IT IS HEREBY ORDERED that the proposed amendments to Rules 11-101 and Rules 11-203 of the General Provisions to the Supreme Court Rules of Professional Practice are adopted and promulgated effective February 23, 2015.

FOR THE COURT:

3-3-15

Date



Matthew B. Durrant  
Chief Justice

1       **Rule 11-201. Senior judges.**

2       Intent:

3       To establish the qualifications, term, authority, appointment and assignment for  
4 senior judges and active senior judges.

5       Applicability:

6       This rule shall apply to judges of courts of record.

7       The term "judge" includes justices of the Supreme Court.

8       Statement of the Rule:

9       (1) Qualifications.

10      (1)(A) Senior Judge. To be a senior judge, a judge shall:

11      (1)(A)(i) have been retained in the last election for which the judge stood for election;

12      (1)(A)(ii) have voluntarily resigned from judicial office, retired upon reaching the  
13 mandatory retirement age, or, if involuntarily retired due to disability, shall have  
14 recovered from or shall have accommodated that disability;

15      (1)(A)(iii) demonstrate appropriate ability and character;

16      (1)(A)(iv) be admitted to the practice of law in Utah, but shall not practice law; and

17      (1)(A)(v) be eligible to receive compensation under the Judges' Retirement Act,  
18 subject only to attaining the appropriate age.

19      (1)(B) Active Senior Judge. To be an active senior judge, a judge shall:

20      (1)(B)(i) meet the qualifications of a senior judge;

21      (1)(B)(ii) be a current resident of Utah;

22      (1)(B)(iii) be physically and mentally able to perform the duties of judicial office;

23      (1)(B)(iv) maintain familiarity with current statutes, rules and case law;

24      (1)(B)(v) satisfy the education requirements of an active judge;

25      (1)(B)(vi) attend the annual judicial conference;

26      (1)(B)(vii) accept assignments, subject to being called, at least two days per  
27 calendar year;

28      (1)(B)(viii) conform to the Code of Judicial Conduct, the Code of Judicial  
29 Administration and rules of the Supreme Court;

30 (1)(B)(viii) obtain attorney survey results on the final judicial performance evaluation  
31 survey conducted prior to termination of service sufficient to have been certified for  
32 retention election regardless whether the survey was conducted for self-improvement  
33 or certification;

34 (1)(B)(ix) continue to meet the requirements for certification for judicial retention  
35 election as those requirements are determined by the Judicial Council to be applicable  
36 to active senior judges;

37 (1)(B)(xi) undergo a performance evaluation every eighteen months following an  
38 initial term as an active senior judge; and

39 (1)(B)(xii) take and subscribe an oath of office to be maintained by the state court  
40 administrator.

41 (2) Disqualifications. To be an active senior judge, a judge:

42 (2)(A) shall not have been removed from office or involuntarily retired on grounds  
43 other than disability;

44 (2)(B) shall not have been suspended during the judge's final term of office or final  
45 six years in office, whichever is greater;

46 (2)(C) shall not have resigned from office as a result of negotiations with the Judicial  
47 Conduct Commission or while a complaint against the applicant was pending before the  
48 Supreme Court or pending before the Judicial Conduct Commission after a finding of  
49 reasonable cause; and

50 (2)(D) shall not have been subject to any order of discipline for conduct as a senior  
51 judge.

52 (3) Term of Office.

53 (3)(A) The initial term of office of a senior judge is until December 31 of the second  
54 year following appointment. The initial term of office of an active senior judge less than  
55 age 75 years is until December 31 of the second year following appointment or until  
56 December 31 of the year in which the judge reaches age 75, whichever is shorter. The  
57 initial term of office of an active senior judge age 75 years or more is until December 31  
58 of the year following appointment.

59 (3)(B) A subsequent term of office of a senior judge is for three years. A subsequent  
60 term of office of an active senior judge is three years or until December 31 of the year in  
61 which the judge reaches age 75, whichever is shorter. The subsequent term of office of  
62 an active senior judge age 75 years or more is for one year.

63 (3)(C) All subsequent appointments begin on January 1. The Supreme Court may  
64 withdraw an appointment with or without cause.

65 (3)(D) The term of office of senior judges and active senior judges in office on  
66 November 1, 2005 shall continue until December 31 of the year in which their terms  
67 would have expired under the former rule.

68 (4) Authority. A senior judge may solemnize marriages. In addition to the authority of  
69 a senior judge, an active senior judge, during an assignment, has all the authority of the  
70 office of a judge of the court to which the assignment is made.

71 (5) Application and Appointment.

72 (5)(A) To be appointed a senior judge or active senior judge a judge shall apply to  
73 the Judicial Council and submit relevant information as requested by the Judicial  
74 Council.

75 (5)(B) The applicant shall:

76 (5)(B)(i) provide the Judicial Council with the record of all orders of discipline entered  
77 by the Supreme Court; and

78 (5)(B)(ii) declare whether at the time of the application there is any complaint against  
79 the applicant pending before the Supreme Court or pending before the Judicial Conduct  
80 Commission after a finding of reasonable cause.

81 (5)(C) The Judicial Council may apply to the judicial performance evaluation  
82 information the same standards and discretion provided for in Rule 3-111.05. After  
83 considering all information the Judicial Council may certify to the Supreme Court that  
84 the applicant meets the qualifications of a senior judge or active senior judge and the  
85 Chief Justice may appoint the judge as a senior judge or active senior judge.

86 Judges who declined, under former Rule 3-111, to participate in an attorney survey  
87 in anticipation of retirement may use the results of an earlier survey to satisfy  
88 Subsection (1)(B)(viii).

89 (6) Assignment.

90 (6)(A) With the consent of the active senior judge, the presiding judge may assign an  
91 active senior judge to a case or for a specified period of time. Cumulative assignments  
92 under this subsection shall not exceed 60 days per calendar year except as necessary  
93 to complete an assigned case.

94 (6)(B) In extraordinary circumstances and with the consent of the active senior  
95 judge, the chief justice may assign an active senior judge to address the extraordinary  
96 circumstances for a specified period of time not to exceed 60 days per calendar year,  
97 which may be in addition to assignments under subsection (6)(A). To request an  
98 assignment under this subsection, the presiding judge shall certify that there is an  
99 extraordinary need. The state court administrator shall certify whether there are funds  
100 available to support the assignment.

101 (6)(C) An active senior judge may be assigned to any court other than the Supreme  
102 Court.

103 (6)(D) The state court administrator shall provide such assistance to the presiding  
104 judge and chief justice as requested and shall exercise such authority in making  
105 assignments as delegated by the presiding judge and chief justice.

106 (6)(E) Notice of an assignment made under this rule shall be in writing and  
107 maintained by the state court administrator.

1       **Rule 11-203. Senior justice court judges.**

2       Intent:

3       To establish the qualifications, term, authority, appointment and assignment for  
4 senior justice court judges and active senior justice court judges.

5       Applicability:

6       This rule shall apply to judges of courts not of record.

7       Statement of the Rule:

8       (1) Qualifications.

9       (1)(A) Senior Justice Court Judge. To be a senior justice court judge, a judge shall:

10       (1)(A)(i) have been certified by the Judicial Council for retention election or  
11 reappointment at the last time the Judicial Council considered the judge for certification;

12       (1)(A)(ii) have voluntarily resigned from judicial office, retired upon reaching the  
13 mandatory retirement age, or, if involuntarily retired due to disability, shall have  
14 recovered from or shall have accommodated that disability;

15       (1)(A)(iii) demonstrate appropriate ability and character;

16       (1)(A)(iv) have been in office for at least five years; and

17       (1)(A)(v) comply with the restrictions on secondary employment provided by the  
18 Utah Code.

19       (1)(B) Active Senior Justice Court Judge. To be an active senior justice court judge,  
20 a judge shall:

21       (1)(B)(i) meet the qualifications of a senior justice court judge;

22       (1)(B)(ii) be a current resident of Utah;

23       (1)(B)(iii) be physically and mentally able to perform the duties of judicial office;

24       (1)(B)(iv) maintain familiarity with current statutes, rules and case law;

25       (1)(B)(v) satisfy the education requirements of an active justice court judge;

26       (1)(B)(vi) accept assignments, subject to being called, at least two days per calendar  
27 year;

28       (1)(B)(vii) conform to the Code of Judicial Conduct, the Code of Judicial  
29 Administration and rules of the Supreme Court;

30 (1)(B)(viii) continue to meet the requirements for certification as those requirements  
31 are determined by the Judicial Council to apply to active senior justice court judges; and

32 (1)(B)(viii) undergo a performance evaluation every eighteen months following an  
33 initial term as an active senior judge; and

34 (1)(B)(x) take and subscribe an oath of office to be maintained by the state court  
35 administrator.

36 (2) Disqualifications. To be an active senior justice court judge, a judge shall not:

37 (2)(A) have been removed from office or involuntarily retired on grounds other than  
38 disability;

39 (2)(B) have been suspended during the judge's final term of office or final four years  
40 in office, whichever is greater;

41 (2)(C) have resigned from office as a result of negotiations with the Judicial Conduct  
42 Commission or while a complaint against the applicant was pending before the  
43 Supreme Court or pending before the Judicial Conduct Commission after a finding of  
44 reasonable cause; and

45 (2)(D) have been subject to any order of discipline for conduct as a senior justice  
46 court judge.

47 (3) Term of Office.

48 (3)(A) The initial term of office of a senior justice court judge is until December 31 of  
49 the second year following appointment. The initial term of office of an active senior  
50 justice court judge less than age 75 years is until December 31 of the second year  
51 following appointment or until December 31 of the year in which the judge reaches age  
52 75, whichever is shorter. The initial term of office of an active senior justice court judge  
53 age 75 years or more is until December 31 of the year following appointment.

54 (3)(B) A subsequent term of office of a senior justice court judge is for three years. A  
55 subsequent term of office of an active senior justice court judge is three years or until  
56 December 31 of the year in which the judge reaches age 75, whichever is shorter. The  
57 subsequent term of office of an active senior justice court judge age 75 years or more is  
58 for one year.

59 (3)(C) All subsequent appointments begin on January 1. The Supreme Court may  
60 withdraw an appointment with or without cause.

61 (3)(D) The term of office of senior justice court judges and active senior justice court  
62 judges in office on November 1, 2005 shall continue until December 31 of the year in  
63 which their terms would have expired under the former rule.

64 (4) Authority. A senior justice court judge may solemnize marriages. In addition to  
65 the authority of a senior justice court judge, an active senior justice court judge, during  
66 an assignment, has all the authority of a justice court judge.

67 (5) Application and Appointment.

68 (5)(A) To be appointed a senior justice court judge or active senior justice court  
69 judge a judge shall apply to the Judicial Council and submit relevant information as  
70 requested by the Judicial Council.

71 (5)(B) The applicant shall:

72 (5)(B)(i) provide the Judicial Council with the record of all orders of discipline entered  
73 by the Supreme Court; and

74 (5)(B)(ii) declare whether at the time of the application there is any complaint against  
75 the applicant pending before the Supreme Court or pending before the Judicial Conduct  
76 Commission after a finding of reasonable cause.

77 (5)(C) The Judicial Council may apply to the judicial performance evaluation  
78 information the same standards and discretion provided for in Rule 3-111.04. After  
79 considering all information the Judicial Council may certify to the Supreme Court that  
80 the applicant meets the qualifications of a senior justice court judge or active senior  
81 justice court judge. The chief justice may appoint the judge as a senior justice court  
82 judge or active senior justice court judge.

83 (6) Assignment.

84 (6)(A) With the consent of the active senior justice court judge, the appointing  
85 authority for a justice court may assign an active senior justice court judge to a case or  
86 for a specified period of time. Cumulative assignments under this subsection shall not  
87 exceed 60 days per calendar year except as necessary to complete an assigned case.

88       (6)(B) In extraordinary circumstances and with the consent of the active senior  
89 justice court judge, the chief justice may assign an active senior justice court judge to  
90 address the extraordinary circumstances for a specified period of time not to exceed 60  
91 days per calendar year, which may be in addition to assignments under subsection  
92 (6)(A). To request an assignment under this subsection, the appointing authority shall  
93 certify that there is an extraordinary need.

94       (6)(C) An active senior justice court judge may be assigned to any justice court in  
95 the state.

96       (6)(D) The appointing authority shall make the assignment in writing and send a  
97 copy to the court to which the active senior justice court judge is assigned and to the  
98 state court administrator.