

CRIMINAL PROCEDURE REVISIONS

RESOLUTION

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: _____

LONG TITLE

General Description:

This joint resolution amends the Utah Rules of Criminal Procedure to prohibit a prosecutor from reducing a charge in certain circumstances.

Highlighted Provisions:

This resolution:

► requires that a prosecuting attorney obtain a defendant's consent before reducing a misdemeanor charge to an infraction.

Special Clauses:

This resolution provides an immediate effective date.

Utah Rules of Criminal Procedure Affected:

AMENDS:

Rule 5, Utah Rules of Criminal Procedure

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

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

Section 1. **Rule 5**, Utah Rules of Criminal Procedure is amended to read:



28 **Rule 5. Information and Indictment.**

29 (a) Unless otherwise provided, all criminal prosecutions whether for felony,
30 misdemeanor or infraction shall be commenced by the filing of an information or the return of
31 an indictment. Prosecution by information shall be commenced before a magistrate having
32 jurisdiction of the offense alleged to have been committed unless otherwise provided by law.

33 (b) Unless otherwise provided, no information shall be filed before a magistrate
34 charging the commission of a felony or class A misdemeanor unless the prosecuting attorney
35 shall first authorize the filing of such information. This restriction shall not apply in cases
36 where the magistrate has reasonable cause to believe that the person to be charged may avoid
37 apprehension or escape before approval can be obtained.

38 (c) In criminal prosecutions filed before a magistrate charging the commission of a
39 misdemeanor, the prosecuting attorney may not reduce the charge to an infraction if the
40 defendant has requested a trial by jury in accordance with Rule 17 of the Utah Rules of
41 Criminal Procedure.

42 Section 2. **Effective date.**

43 This resolution takes effect upon approval by a constitutional two-thirds vote of all
44 members elected to each house.

Legislative Review Note
as of **2-18-09 10:39 AM**

Office of Legislative Research and General Counsel

H.J.R. 27 - Criminal Procedure Revisions Resolution

Fiscal Note

2009 General Session
State of Utah

State Impact

Provisions of this bill are estimated to increase jury trials by 58. The average cost per jury trial for cases covered by this bill is \$1,360. The estimated cost to implement provisions of this bill is \$78,800 ongoing from the General Fund beginning in FY 2010.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$78,800	\$78,800	\$0	\$0	\$0
Total	\$0	\$78,800	\$78,800	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.