

Agenda

Policy and Planning Committee

June 24, 2016
12:00 – 1:30 p.m.

West Conference Room
Matheson Courthouse
450 South State Street
Salt Lake City, Utah 84111

12:00	Welcome and Approval of Minutes	Action	Tab 1	Judge Reed Parkin
12:05	CJA 4-401.03. Notice to Public of Recording.	Action	Tab 2	Keisa Williams
12:10	CJA 11-203. Senior justice court judges.	Discussion/ Action	Tab 3	Keisa Williams
12:40	CJA 4-202.02. Records classification.	Discussion/ Action	Tab 4	Keisa Williams
1:00	CJA 4-403. Electronic signature and signature stamp use.	Discussion/ Action	Tab 5	Keisa Williams
1:20	Other Business			Judge Reed Parkin

Committee Web Page: <http://www.utcourts.gov/intranet/committees/policyplan/>

Meeting Schedule: Meetings are held in the Matheson Courthouse, Judicial Council Room, from 12:00 to 1:30 unless otherwise stated.

August 5, 2016
September 2, 2016
October 7, 2016
November 4, 2016
December 2, 2016

Policy and Planning Committee Meeting Executive Summary - Focus Sheet

June 24, 2016

Issue	Scope	Status	Assignments	Notes
Approval of Minutes		Action/Vote	Read May minutes for accuracy and approval.	
Rules for Final Action	Consider Rule 4-401.03 for final action.	Action/Vote	Approve Rule 4-401.03 for submission to the Judicial Council.	Ms. Williams will review the proposed rule. <i>The comment period is closed and there were no public comments.</i>
Rule 11-203. Senior Justice Court Judges.	Consider amendments to Rule 11-203 regarding the use of senior justice court judges who have been removed due to workforce reductions.	Discussion	Review the rule 11-203 proposals and be prepared to discuss them.	Pursuant to H.B. 160, changes were made to Utah Code 78A-7-203 granting certain municipalities the ability to remove justice court judges as a reduction in force. The proposed amendments to Rule 11-203 account for those changes and add an unrelated requirement regarding judicial performance evaluations that would bring the rule in line with the qualifications required under Rule 11-201 for senior judges.
Rule 4-202.02. Records Classification.	Consider amendments to Rule 4-202.02 regarding a new process for individuals to obtain warrants for infectious disease testing.	Discussion	Review the rule 4-202.02 proposals and be prepared to discuss them.	Pursuant to H.B. 68, changes were made to Utah Code 78B-8-402 adding a process for individuals exposed to infectious diseases to obtain a warrant to compel blood draws. The proposal would seal all records associated with actions for disease testing.

**Policy and Planning Committee Meeting
Executive Summary - Focus Sheet**

June 24, 2016

Rule 4-403. Electronic signature and signature stamp use.	Consider amendments to Rule 4-403 regarding the use of electronic signatures.	Discussion	Review the rule 4-403 proposals and be prepared to discuss them.	Some justice courts have adopted a policy of only using a clerk's first name and the first initial of their last name when signing under a judge's electronic/stamped signature. The proposal would require the use of the clerk's full first and last name.
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Next Meeting: Friday, August 5, 2016 at 12:00 p.m.

Tab 1

Policy and Planning Committee
Matheson Courthouse
Council room
450 South State St.
Salt Lake City, Utah 84111

June 3, 2016

DRAFT

Members Present

Hon. Ann Boyden
John Lund
Hon. Reed S. Parkin

Members Excused

Hon. Marvin Bagley
Hon. Mark DeCaria
Hon. Mary Noonan
Nancy J. Sylvester

Staff

Keisa L. Williams

Guests

(1) Approval of minutes

Judge Reed Parkin stated there are not enough members present to be a quorum; therefore the members briefly discussed a few issues. Without a quorum the minutes from May 6, 2016 will need to be approved at the next meeting.

(2) CJA 11-203. Senior justice court judges.

Judge Parkin discussed the justice court issues with senior judges. Judge Parkin stated if there are two judges with an individual caseload of less than 60% the county can begin reduction proceedings.

The committee briefly discussed CJA 11-203; however, due to the lack of a quorum no motions were made.

(3) CJA 4-202.02. Records classification.

Keisa Williams stated H.B. 68 made changes regarding compelling blood draws for individuals with suspected infectious diseases. Judge Mary Noonan confirmed this is most likely for emergency response personnel.

The committee briefly discussed CJA 4-202.02; however, due to the lack of a quorum no motions were made.

(4) CJA 4-403. Electronic signature and signature stamp use.

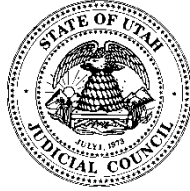
Ms. Williams stated that Brent Johnson was notified that some justice courts throughout the state have adopted a policy of only using clerks' first name and the first initial of their last name when they are signing court documents below a Judge's stamped or e-signature. Mr. Johnson recommended the committee discuss a consistent state-wide policy and encouraged requiring the use of the full first and last name.

The committee briefly discussed CJA 4-403; however, due to the lack of a quorum no motions were made.

(5) Other Business

The member discussed rescheduling the July 1 meeting to June 24. Staff will send out notice of the change. There was no other business and the meeting was adjourned.

Tab 2



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Policy and Planning Committee
From: Keisa L. Williams *Keisa L. Williams*
Date: June 15, 2016
Re: Rule CJA 4-401.03

The public comment period for Rule 4-401.03 of the Utah Code of Judicial Administration is now closed. The rule became effective on May 10, 2016 under Rule 2-205 of the Utah Code of Judicial Administration, subject to change after the comment period. The proposal received no public comments. The rule is now ready for final action by this committee.

CJA 04-0401.03. Notice to Public of Recording. New. Establishes uniform standards and procedures for notifying the public when court proceedings are being recorded, consistent with Utah Code section 78A-2-208.

If the proposal is recommended by this committee, I will take it to the Judicial Council for final action.

Encl. CJA 4-401.03

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

1 **Rule 4-401.03. Notice to public of recording.**

2 Intent:

3 To establish uniform standards and procedures for notifying the public when court proceedings are being
4 recorded, consistent with Utah Code section 78A-2-208.

5 **Applicability:**

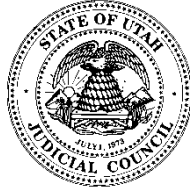
6 This rule applies to the courts of record and not of record.

7 This rule governs all judicial proceedings.

8 **Statement of the Rule:**

9 When an electronic or digital recording system is used, courts will post written notice to the public that the
10 proceedings are being recorded.

Tab 3



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Policy and Planning Committee
From: Keisa L. Williams *KLW*
Date: June 15, 2016
Re: Rule CJA 11-203. Senior justice court judges.

Rule CJA 11-203. Senior justice court judges. This rule establishes the qualifications, term, authority, appointment and assignment for senior justice court judges and active senior justice court judges.

Pursuant to H.B. 160, changes were made to Utah Code 78A-7-203 granting certain municipalities the ability to remove justice court judges as a reduction in force. The first proposed amendment to Rule 11-203 accounts for that change.

Unrelated to H.B. 160, there is a second proposal to add an additional requirement for qualification as an active senior justice court judge. The requirement is similar to one added to Rule 11-201 for senior judges a couple of years ago. Rick Schwermer felt the qualification requirements should be the same. It is unclear whether this qualification requirement was deliberately omitted for senior justice court judges.

Active senior justice court judges would be required to provide the results of their final judicial performance evaluation survey, conducted prior to termination of service, and the results must have been sufficient to have certified them for a retention election.

Encl. CJA 11-203
CJA 11-201
H.B. 160
Utah Code 78A-7-203

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

Rule 11-203. Senior justice court judges.

Intent:

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

Applicability:

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

Statement of the Rule:

(1) Qualifications.

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

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

(1)(A)(ii) have voluntarily resigned from judicial office, have been laid off pursuant to a reduction in force, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, shall have recovered from or shall have accommodated that disability;

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

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

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

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

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

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

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

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

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

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

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

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

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

(1)(B)(~~ix~~)(x) undergo a performance evaluation every eighteen months following an initial term as an active senior judge; and

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

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

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

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

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

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

(3) Term of Office.

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

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

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

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

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

(5) Application and Appointment.

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

(5)(B) The applicant shall:

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

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

(5)(C) The Judicial Council may apply to the judicial performance evaluation information the same standards and discretion provided for in Rule 3-111.04. After considering all information the Judicial Council may certify to the Supreme Court that the applicant meets the qualifications

of a senior justice court judge or active senior justice court judge. The chief justice may appoint the judge as a senior justice court judge or active senior justice court judge.

(6) Assignment.

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

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

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

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

Rule 11-201. Senior judges.

Intent:

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

Applicability:

This rule shall apply to judges of courts of record.

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

Statement of the Rule:

(1) Qualifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Term of Office.

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

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

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

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

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

(5) Application and Appointment.

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

(5)(B) The applicant shall:

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

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

(5)(C) The Judicial Council may apply to the judicial performance evaluation information the same standards and discretion provided for in Rule 3-111.05. After considering all information the Judicial Council may certify to the Supreme Court that the applicant meets the qualifications of a senior judge or active senior judge and the Chief Justice may appoint the judge as a senior judge or active senior judge. Judges who declined, under former Rule 3-111, to participate in an attorney survey in anticipation of retirement may use the results of an earlier survey to satisfy Subsection (1)(B)(ix).

(6) Assignment.

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

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

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

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

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

Effective 5/10/2016

78A-7-203 Term of office for justice court judge -- Retention -- Reduction in force.

- (1) The term of a justice court judge is six years beginning the first Monday in January following the date of election.
- (2) Upon the expiration of a justice court judge's term of office, the judge shall be subject to an unopposed retention election in accordance with the procedures set forth in Section 20A-12-201:
 - (a) in the county or counties in which the court to which the judge is appointed is located if the judge is a county justice court judge or a municipal justice court judge in a town or city of the fourth or fifth class; or
 - (b) in the municipality in which the court to which the judge is appointed is located if the judge is a municipal justice court judge and Subsection (2)(a) does not apply.
- (3) Before each retention election, each justice court judge shall be evaluated in accordance with the performance evaluation program established in Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act.
- (4) Notwithstanding Subsection (3), each justice court judge who is subject to a retention election in 2012, 2014, and 2016, and who is not a full-time justice court judge on July 1, 2012, shall be evaluated by the Judicial Performance Evaluation Commission according to the following performance standards:
 - (a) the justice court judge shall have at least 30 annual hours of continuing legal education for each year of the justice court judge's current term;
 - (b) the justice court judge may not have more than one public reprimand issued by the Judicial Conduct Commission or the Supreme Court during the justice court judge's current term; and
 - (c) the justice court judge may not have had any cases under advisement for more than two months.
- (5) Political subdivisions in counties of the first and second class that have more than one justice court judge and the weighted caseload per judge is lower than 0.60 as determined by the Administrative Office of the Courts may, at the political subdivision's discretion and at the end of a judge's term of office, initiate a reduction in force and reduce, lay off, terminate, or eliminate a judge's position pursuant to the political subdivision's employment policies.
- (6) Political subdivisions in counties of the first and second class may only add new justice court judge positions if the Judicial Council, after considering the caseload of the court, approves creation of the position.

Amended by Chapter 146, 2016 General Session

Senator Lyle W. Hillyard proposes the following substitute bill:

JUSTICE COURT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill requires justice court judges in the first and second class counties to be law school graduates.

Highlighted Provisions:

This bill:

- requires justice court judges in counties of the first and second class to have graduated from law school;
- allows current justice court judges ~~to remain on the bench~~ **until** they leave; and
- permits certain political subdivisions with more than one justice court to initiate reductions in force.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-7-201, as last amended by Laws of Utah 2012, Chapter 205

78A-7-203, as last amended by Laws of Utah 2012, Chapter 205



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

Section 1. Section **78A-7-201** is amended to read:

78A-7-201. Justice court judge eligibility -- Mandatory retirement.

(1) A justice court judge shall be:

(a) a citizen of the United States;

(b) 25 years of age or older;

(c) a resident of Utah for at least three years immediately preceding his appointment;

(d) a resident of the county in which the court is located or an adjacent county for at least six months immediately preceding appointment; and

(e) a qualified voter of the county in which the judge resides.

(2) ~~[Justice]~~ Effective May 10, 2016, a justice court ~~[judges are]~~ judge is not required to be admitted to practice law in the state as a qualification to hold office but:

(a) in counties of the first and second class, a justice court judge shall have a degree from a law school that makes one eligible to apply for admission to a bar in any state; and

(b) in counties of the third, fourth, fifth, and sixth class, a justice court judge shall have at the minimum a diploma of graduation from high school or its equivalent.

(3) A justice court judge shall be a person who has demonstrated maturity of judgment, integrity, and the ability to understand and apply appropriate law with impartiality.

(4) ~~[Justice]~~ A ~~Ŝ~~ **→ justice** ~~←Ŝ~~ court ~~[judges]~~ judge shall retire upon attaining the age of 75 years.

(5) In counties of the first and second class, if there are not at least three applicants for a justice court judge position who meet the requirements of Subsection (2)(a), the justice court nominating commission shall re-advertise the position, and may accept applications from persons who do not meet the requirements of Subsections (1)(d) and (2)(a).

(6) (a) In accordance with Subsection 78A-7-202(3), the Administrative Office of the Courts shall provide notice to all attorneys in the county and adjacent counties when a justice court judge position is vacant.

(b) If the justice court nominating commission waives the requirement of Subsection (1)(d) in accordance with Subsection (5), the Administrative Office of the Courts shall provide notice to all attorneys in the state.

(7) A justice court judge ~~Ŝ~~ **→ [sitting on the bench]** holding office ~~←Ŝ~~ on May 10, 2016 who does not meet the

57 qualification in Subsection (2)(a) may continue in the judge's position until the judge resigns,
58 retires, is not retained in a retention election, or is removed from office.

59 Section 2. Section **78A-7-203** is amended to read:

60 **78A-7-203. Term of office for justice court judge -- Retention -- Reduction in**
61 **force.**

62 (1) The term of a justice court judge is six years beginning the first Monday in January
63 following the date of election.

64 (2) Upon the expiration of a justice court judge's term of office, the judge shall be
65 subject to an unopposed retention election in accordance with the procedures set forth in
66 Section **20A-12-201**:

67 (a) in the county or counties in which the court to which the judge is appointed is
68 located if the judge is a county justice court judge or a municipal justice court judge in a town
69 or city of the fourth or fifth class; or

70 (b) in the municipality in which the court to which the judge is appointed is located if
71 the judge is a municipal justice court judge and Subsection (2)(a) does not apply.

72 (3) Before each retention election, each justice court judge shall be evaluated in
73 accordance with the performance evaluation program established in Title 78A, Chapter 12,
74 Judicial Performance Evaluation Commission Act.

75 (4) Notwithstanding Subsection (3), each justice court judge who is subject to a
76 retention election in 2012, 2014, and 2016, and who is not a full-time justice court judge on
77 July 1, 2012, shall be evaluated by the Judicial Performance Evaluation Commission according
78 to the following performance standards:

79 (a) the justice court judge shall have at least 30 annual hours of continuing legal
80 education for each year of the justice court judge's current term;

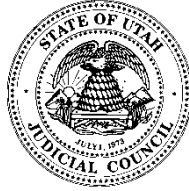
81 (b) the justice court judge may not have more than one public reprimand issued by the
82 Judicial Conduct Commission or the Supreme Court during the justice court judge's current
83 term; and

84 (c) the justice court judge may not have had any cases under advisement for more than
85 two months.

86 (5) Political subdivisions in counties of the first and second class that have more than
87 one justice court judge and the weighted caseload per judge is lower than 0.60 as determined

88 by the Administrative Office of the Courts may, at the political subdivision's discretion ~~§~~→ **and at**
88a **the end of a judge's term of office** ←~~§~~ , initiate
89 a reduction in force and reduce, lay off, terminate, or eliminate a judge's position pursuant to
90 the political subdivision's employment policies.
90a ~~§~~→ **(6) Political subdivisions in counties of the first and second class may only add new**
90b **justice court judge positions if the Judicial Council, after considering the caseload of the court,**
90c **approves creation of the position.** ←~~§~~

Tab 4



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Policy and Planning Committee
From: Keisa L. Williams *Keisa L. Williams*
Date: June 15, 2016
Re: Rule CJA 4-202.02. Records classification.

Rule CJA 04-202.02. Records Classification. This rule classifies court records as public or non-public.

Pursuant to H.B. 68, changes were made to Utah Code 78B-8-402 adding a process for individuals exposed to infectious diseases to obtain a warrant to compel blood draws. The proposed amendment would seal all records associated with actions for disease testing.

Encl. CJA 4-202.02
H.B. 68
Utah Code 78B-8-402

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

Rule 4-202.02. Records classification.

Intent:

To classify court records as public or non-public.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) Court records are public unless otherwise classified by this rule.

(2) Public court records include but are not limited to:

(2)(A) abstract of a citation that redacts all non-public information;

(2)(B) aggregate records without non-public information and without personal identifying information;

(2)(C) appellate filings, including briefs;

(2)(D) arrest warrants, but a court may restrict access before service;

(2)(E) audit reports;

(2)(F) case files;

(2)(G) committee reports after release by the Judicial Council or the court that requested the study;

(2)(H) contracts entered into by the judicial branch and records of compliance with the terms of a contract;

(2)(I) drafts that were never finalized but were relied upon in carrying out an action or policy;

(2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;

(2)(K) financial records;

(2)(L) indexes approved by the Management Committee of the Judicial Council, including the following, in courts other than the juvenile court; an index may contain any other index information:

(2)(L)(i) amount in controversy;

(2)(L)(ii) attorney name;

(2)(L)(iii) case number;

(2)(K)(iv) case status;

(2)(L)(v) civil case type or criminal violation;

(2)(L)(vi) civil judgment or criminal disposition;

(2)(L)(vii) daily calendar;

(2)(L)(viii) file date;

(2)(L) party name;

(2)(M) name, business address, business telephone number, and business email address of an adult person or business entity other than a party or a victim or witness of a crime;

(2)(N) name, address, telephone number, email address, date of birth, and last four digits of the following: driver's license number; social security number; or account number of a party;

(2)(O) name, business address, business telephone number, and business email address of a lawyer appearing in a case;

(2)(P) name, business address, business telephone number, and business email address of court personnel other than judges;

- (2)(Q) name, business address, and business telephone number of judges;
- (2)(R) name, gender, gross salary and benefits, job title and description, number of hours worked per pay period, dates of employment, and relevant qualifications of a current or former court personnel;
- (2)(S) unless classified by the judge as private or safeguarded to protect the personal safety of the juror or the juror's family, the name of a juror empanelled to try a case, but only 10 days after the jury is discharged;
- (2)(T) opinions, including concurring and dissenting opinions, and orders entered in open hearings;
- (2)(U) order or decision classifying a record as not public;
- (2)(V) private record if the subject of the record has given written permission to make the record public;
- (2)(W) probation progress/violation reports;
- (2)(X) publications of the administrative office of the courts;
- (2)(Y) record in which the judicial branch determines or states an opinion on the rights of the state, a political subdivision, the public, or a person;
- (2)(Z) record of the receipt or expenditure of public funds;
- (2)(AA) record or minutes of an open meeting or hearing and the transcript of them;
- (2)(BB) record of formal discipline of current or former court personnel or of a person regulated by the judicial branch if the disciplinary action has been completed, and all time periods for administrative appeal have expired, and the disciplinary action was sustained;
- (2)(CC) record of a request for a record;
- (2)(DD) reports used by the judiciary if all of the data in the report is public or the Judicial Council designates the report as a public record;
- (2)(EE) rules of the Supreme Court and Judicial Council;
- (2)(FF) search warrants, the application and all affidavits or other recorded testimony on which a warrant is based are public after they are unsealed under Utah Rule of Criminal Procedure 40; and
- (2)(GG) statistical data derived from public and non-public records but that disclose only public data.
- (2)(HH) Notwithstanding subsections (6) and (7), if a petition, indictment, or information is filed charging a person 14 years of age or older with a felony or an offense that would be a felony if committed by an adult, the petition, indictment or information, the adjudication order, the disposition order, and the delinquency history summary of the person are public records. The delinquency history summary shall contain the name of the person, a listing of the offenses for which the person was adjudged to be within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses.
- (2)(II) Notwithstanding subsection (3)(A)(i), adoption records become public on the one hundredth anniversary of the date the final decree of adoption was entered.
- (3) The following court records are sealed:
 - (3)(A) records in the following actions:
 - (3)(A)(i) Title 78B, Chapter 6, Part 1, Utah Adoption Act six months after the conclusion of proceedings, which are private until sealed;
 - (3)(A)(ii) Title 78B, Chapter 15, Part 8, Gestational Agreement, six months after the conclusion of

proceedings, which are private until sealed; and-

- (3)(A)(iii) Title 76, Chapter 7, Part 304.5, Consent required for abortions performed on minors;
- (3)(A)(iv) Title 78B, Chapter 8, Part 402, actions for disease testing;

and

- (3)(B) expunged records;
- (3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code Section 77-23a-15;
- (3)(D) records showing the identity of a confidential informant;
- (3)(E) records relating to the possession of a financial institution by the commissioner of financial institutions under Utah Code Section 7-2-6;
- (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
- (3)(G) records designated as sealed by rule of the Supreme Court;
- (3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal proceedings; and
- (3)(I) other records as ordered by the court under Rule 4-202.04.

(4) The following court records are private:

- (4)(A) records in the following actions:
 - (4)(A)(i) Section 62A-15-631, Involuntary commitment under court order;
 - (4)(A)(ii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed; and
 - (4)(A)(iii) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed; and
- (4)(B) records in the following actions, except that the case history; judgments, orders and decrees; letters of appointment; and the record of public hearings are public records:
 - (4)(B)(i) Title 30, Husband and Wife, except that an action for consortium due to personal injury under Section 30-2-11 is public;
 - (4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;
 - (4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability and their Property;
 - (4)(B)(iv) Title 78B, Chapter 7, Protective Orders;
 - (4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;
 - (4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;
 - (4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support Act;
 - (4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and
 - (4)(B)(ix) an action to modify or enforce a judgment in any of the actions in this subparagraph (B);
- (4)(C) an affidavit supporting a motion to waive fees;
- (4)(D) aggregate records other than public aggregate records under subsection (2);
- (4)(E) alternative dispute resolution records;
- (4)(F) applications for accommodation under the Americans with Disabilities Act;
- (4)(G) citation, but an abstract of a citation that redacts all non-public information is public;
- (4)(H) judgment information statement;
- (4)(I) judicial review of final agency action under Utah Code Section 62A-4a-1009;
- (4)(J) the following personal identifying information about a party: driver's license number, social security number, account description and number, password, identification number, and similar personal identifying information;
- (4)(K) the following personal identifying information about a person other than a party or a victim

or witness of a crime: residential address, personal email address, personal telephone number; date of birth, driver's license number, social security number, account description and number, password, identification number, and similar personal identifying information;

(4)(L) medical, psychiatric, or psychological records;

(4)(M) name of a minor, except that the name of a minor party is public in the following district and justice court proceedings:

(4)(M)(i) name change of a minor;

(4)(M)(ii) guardianship or conservatorship for a minor;

(4)(M)(iii) felony, misdemeanor or infraction;

(4)(M)(iv) child protective orders; and

(4)(M)(v) custody orders and decrees;

(4)(N) notices from the U.S. Bankruptcy Court;

(4)(O) personnel file of a current or former court personnel or applicant for employment;

(4)(P) photograph, film or video of a crime victim;

(4)(Q) record of a court hearing closed to the public or of a child's testimony taken under URCrP 15.5:

(4)(Q)(i) permanently if the hearing is not traditionally open to the public and public access does not play a significant positive role in the process; or

(4)(Q)(ii) if the hearing is traditionally open to the public, until the judge determines it is possible to release the record without prejudice to the interests that justified the closure;

(4)(R) record submitted by a senior judge or court commissioner regarding performance evaluation and certification;

(4)(S) record submitted for in camera review until its public availability is determined;

(4)(T) reports of investigations by Child Protective Services;

(4)(U) victim impact statements;

(4)(V) name of a prospective juror summoned to attend court, unless classified by the judge as safeguarded to protect the personal safety of the prospective juror or the prospective juror's family;

(4)(W) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure, except briefs filed pursuant to court order;

(4)(X) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure;

(4)(Y) an addendum to an appellate brief filed in a case involving:

(4)(Y)(i) adoption;

(4)(Y)(ii) termination of parental rights;

(4)(Y)(iii) abuse, neglect and dependency;

(4)(Y)(iv) substantiation under Section 78A-6-323; or

(4)(Y)(v) protective orders or dating violence protective orders;

(4)(Z) other records as ordered by the court under Rule 4-202.04.

(5) The following court records are protected:

(5)(A) attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the courts concerning litigation, privileged communication between the courts and an attorney representing, retained, or employed by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-judicial, or administrative proceeding;

- (5)(B) records that are subject to the attorney client privilege;
- (5)(C) bids or proposals until the deadline for submitting them has closed;
- (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;
- (5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the court's contemplated policies or contemplated courses of action;
- (5)(F) court security plans;
- (5)(G) investigation and analysis of loss covered by the risk management fund;
- (5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;
- (5)(I) confidential business records under Utah Code Section 63G-2-309;
- (5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:
 - (5)(J)(i) interfere with an investigation;
 - (5)(J)(ii) interfere with a fair hearing or trial;
 - (5)(J)(iii) disclose the identity of a confidential source; or
 - (5)(J)(iv) concern the security of a court facility;
- (5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;
- (5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;
- (5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;
- (5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation or parole;
- (5)(O) record the disclosure of which would jeopardize life, safety or property;
- (5)(P) strategy about collective bargaining or pending litigation;
- (5)(Q) test questions and answers;
- (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
- (5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;
- (5)(T) presentence investigation report;
- (5)(U) except for those filed with the court, records maintained and prepared by juvenile probation; and
- (5)(V) other records as ordered by the court under Rule 4-202.04.
- (6) The following are juvenile court social records:
 - (6)(A) correspondence relating to juvenile social records;
 - (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;
 - (6)(C) mediation disposition notices;
 - (6)(D) medical, psychological, psychiatric evaluations;

- (6)(E) pre-disposition and social summary reports;
- (6)(F) probation agency and institutional reports or evaluations;
- (6)(G) referral reports;
- (6)(H) report of preliminary inquiries; and
- (6)(I) treatment or service plans.
- (7) The following are juvenile court legal records:
 - (7)(A) accounting records;
 - (7)(B) discovery filed with the court;
 - (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees;
 - (7)(D) name of a party or minor;
 - (7)(E) record of a court hearing;
 - (7)(F) referral and offense histories
 - (7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.
- (8) The following are safeguarded records:
 - (8)(A) upon request, location information, contact information and identity information other than name of a petitioner and other persons to be protected in an action filed under Title 77, Chapter 3a, Stalking Injunctions or Title 78B, Chapter 7, Protective Orders;
 - (8)(B) upon request, location information, contact information and identity information other than name of a party or the party's child after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;
 - (8)(C) location information, contact information and identity information of prospective jurors on the master jury list or the qualified jury list;
 - (8)(D) location information, contact information and identity information other than name of a prospective juror summoned to attend court;
 - (8)(E) except as required by Utah Code section 78-6-304(4), the following information about a victim or witness of a crime:
 - (8)(E)(i) business and personal address, email address, telephone number and similar information from which the person can be located or contacted;
 - (8)(E)(ii) date of birth, driver's license number, social security number, account description and number, password, identification number, and similar personal identifying information.

Effective 5/10/2016

78B-8-402 Petition -- Disease testing -- Notice -- Payment for testing.

- (1) An emergency services provider or first aid volunteer who is significantly exposed during the course of performing the emergency services provider's duties or during the course of performing emergency assistance or first aid may:
 - (a) request that the person to whom the emergency services provider or first aid volunteer was significantly exposed voluntarily submit to testing; or
 - (b) petition the district court **or a magistrate** for an order requiring that the person to whom the emergency services provider or first aid volunteer was significantly exposed submit to testing to determine the presence of a disease, as defined in Section 78B-8-401, and that the results of that test be disclosed to the petitioner by the Department of Health.
- (2)
 - (a) A law enforcement agency may submit on behalf of the petitioner by electronic or other means an ex parte request for a warrant ordering a blood draw from the respondent.
 - (b) The court or magistrate shall issue a warrant ordering the respondent to provide a specimen of the respondent's blood within 24 hours, and that reasonable force may be used, if necessary, if the court or magistrate finds that:
 - (i) the petitioner was significantly exposed during the course of performing the petitioner's duties as an emergency services or first aid provider;
 - (ii) the respondent has refused consent to the blood draw or is unable to give consent;
 - (iii) there may not be an opportunity to obtain a sample at a later date; and
 - (iv) a delay in administering available FDA-approved post-exposure treatment or prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis.
 - (c) The petitioner shall request a person authorized under Section 41-6a-523 perform the blood draw.
 - (d) A sample drawn in accordance with a warrant following an ex parte request shall be sent to the Department of Health for testing.
- (3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the petitioner may file a petition with the district court seeking an order to submit to testing and to disclose the results in accordance with the provisions of this section.
- (4)
 - (a) The petition described in Subsection (3) shall be accompanied by an affidavit in which the petitioner certifies that the petitioner has been significantly exposed to the individual who is the subject of the petition and describes that exposure.
 - (b) The petitioner shall submit to testing to determine the presence of a disease, when the petition is filed or within three days after the petition is filed.
- (5) The petitioner shall cause the petition required under this section to be served on the person who the petitioner is requesting to be tested in a manner that will best preserve the confidentiality of that person.
- (6)
 - (a) The court shall set a time for a hearing on the matter within 10 days after the petition is filed and shall give the petitioner and the individual who is the subject of the petition notice of the hearing at least 72 hours prior to the hearing.
 - (b) The individual who is the subject of the petition shall also be notified that the individual may have an attorney present at the hearing and that the individual's attorney may examine and cross-examine witnesses.
 - (c) The hearing shall be conducted in camera.

- (7) The district court may enter an order requiring that an individual submit to testing, including blood testing, for a disease if the court finds probable cause to believe:
 - (a) the petitioner was significantly exposed; and
 - (b) the exposure occurred during the course of the emergency services provider's duties, or the provision of emergency assistance or first aid by a first aid volunteer.
- (8) The court may order that the blood specimen be obtained by the use of reasonable force if the individual who is the subject of the petition is a prisoner.
- (9) The court may order that additional, follow-up testing be conducted and that the individual submit to that testing, as it determines to be necessary and appropriate.
- (10) The court is not required to order an individual to submit to a test under this section if it finds that there is a substantial reason, relating to the life or health of the individual, not to enter the order.
- (11)
 - (a) Upon order of the district court that a person submit to testing for a disease, that person shall report to the designated local health department to have the person's blood drawn within 10 days from the issuance of the order, and thereafter as designated by the court, or be held in contempt of court.
 - (b) The court shall send the order to the Department of Health and to the local health department ordered to draw the blood.
 - (c) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a local health department may disclose the test results pursuant to a court order as provided in this section.
 - (d) Under this section, anonymous testing as provided under Section 26-6-3.5 may not satisfy the requirements of the court order.
- (12) The local health department or the Department of Health shall inform the subject of the petition and the petitioner of the results of the test and advise both parties that the test results are confidential. That information shall be maintained as confidential by all parties to the action.
- (13) The court, its personnel, the process server, the Department of Health, local health department, and petitioner shall maintain confidentiality of the name and any other identifying information regarding the individual tested and the results of the test as they relate to that individual, except as specifically authorized by this chapter.
- (14)
 - (a) Except as provided in Subsection (14)(b), the petitioner shall remit payment for the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood.
 - (b) If the petitioner is an emergency services provider, the agency that employs the emergency services provider shall remit payment for the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood.
- (15) The entity that draws the blood shall cause the blood and the payment for the analysis of the specimen to be delivered to the Department of Health for analysis.
- (16) If the individual is incarcerated, the incarcerating authority shall either draw the blood specimen or shall pay the expenses of having the individual's blood drawn.
- (17) The ex parte request or petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.

Amended by Chapter 92, 2016 General Session

POST-EXPOSURE BLOOD TESTING AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Edward H. Redd

Senate Sponsor: Brian E. Shiozawa

LONG TITLE

General Description:

This bill allows an emergency service provider to request a blood sample if significantly exposed to a person's bodily fluids in the course of performing the provider's duties.

Highlighted Provisions:

This bill:

- ▶ allows a law enforcement agency to request a court order on behalf of an emergency services provider authorizing a blood sample from an individual if, during the course of performing the provider's duties, the provider is significantly exposed to the individual's bodily fluids.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-8-402, as last amended by Laws of Utah 2013, Chapter 114

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

Section 1. Section **78B-8-402** is amended to read:

78B-8-402. Petition -- Disease testing -- Notice -- Payment for testing.

(1) An emergency services provider or first aid volunteer who is significantly exposed

during the course of performing the emergency services provider's duties or during the course of performing emergency assistance or first aid may:

(a) request that the person to whom the emergency services provider or first aid volunteer was significantly exposed voluntarily submit to testing; or

(b) petition the district court or a magistrate for an order requiring that the person to whom the emergency services provider or first aid volunteer was significantly exposed submit to testing to determine the presence of a disease, as defined in Section 78B-8-401, and that the results of that test be disclosed to the petitioner by the Department of Health.

(2) (a) A law enforcement agency may submit on behalf of the petitioner by electronic or other means an ex parte request for a warrant ordering a blood draw from the respondent.

(b) The court or magistrate shall issue a warrant ordering the respondent to provide a specimen of the respondent's blood within 24 hours, and that reasonable force may be used, if necessary, if the court or magistrate finds that:

(i) the petitioner was significantly exposed during the course of performing the petitioner's duties as an emergency services or first aid provider;

(ii) the respondent has refused consent to the blood draw or is unable to give consent;

(iii) there may not be an opportunity to obtain a sample at a later date; and

(iv) a delay in administering available FDA-approved post-exposure treatment or prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis.

(c) The petitioner shall request a person authorized under Section 41-6a-523 perform the blood draw.

(d) A sample drawn in accordance with a warrant following an ex parte request shall be sent to the Department of Health for testing.

~~[(2)-(a)-The]~~ (3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the petitioner [shall] may file a petition with the district court seeking an order to submit to testing and to disclose the results in accordance with the provisions of this section.

~~[(b) The petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.]~~

58 ~~[(3)]~~ (4) (a) The petition described in Subsection ~~[(2)]~~ (3) shall be accompanied by an
59 affidavit in which the petitioner certifies that the petitioner has been significantly exposed to
60 the individual who is the subject of the petition and describes that exposure.

61 (b) The petitioner shall submit to testing to determine the presence of a disease, when
62 the petition is filed or within three days after the petition is filed.

63 ~~[(4)]~~ (5) The petitioner shall cause the petition required under this section to be served
64 on the person who the petitioner is requesting to be tested in a manner that will best preserve
65 the confidentiality of that person.

66 ~~[(5)]~~ (6) (a) The court shall set a time for a hearing on the matter within 10 days after
67 the petition is filed and shall give the petitioner and the individual who is the subject of the
68 petition notice of the hearing at least 72 hours prior to the hearing.

69 (b) The individual who is the subject of the petition shall also be notified that the
70 individual may have an attorney present at the hearing and that the individual's attorney may
71 examine and cross-examine witnesses.

72 (c) The hearing shall be conducted in camera.

73 ~~[(6)]~~ (7) The district court may enter an order requiring that an individual submit to
74 testing, including blood testing, for a disease if the court finds probable cause to believe:

75 (a) the petitioner was significantly exposed; and

76 (b) the exposure occurred during the course of the emergency services provider's
77 duties, or the provision of emergency assistance or first aid by a first aid volunteer.

78 ~~[(7)]~~ (8) The court may order that the blood specimen be obtained by the use of
79 reasonable force if the individual who is the subject of the petition is a prisoner.

80 ~~[(8)]~~ (9) The court may order that additional, follow-up testing be conducted and that
81 the individual submit to that testing, as it determines to be necessary and appropriate.

82 ~~[(9)]~~ (10) The court is not required to order an individual to submit to a test under this
83 section if it finds that there is a substantial reason, relating to the life or health of the
84 individual, not to enter the order.

85 ~~[(10)]~~ (11) (a) Upon order of the district court that a person submit to testing for a

disease, that person shall report to the designated local health department to have the person's blood drawn within 10 days from the issuance of the order, and thereafter as designated by the court, or be held in contempt of court.

(b) The court shall send the order to the Department of Health and to the local health department ordered to draw the blood.

(c) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a local health department may disclose the test results pursuant to a court order as provided in this section.

(d) Under this section, anonymous testing as provided under Section 26-6-3.5 ~~shall~~ may not satisfy the requirements of the court order.

~~[(11)]~~ (12) The local health department or the Department of Health shall inform the subject of the petition and the petitioner of the results of the test and advise both parties that the test results are confidential. That information shall be maintained as confidential by all parties to the action.

~~[(12)]~~ (13) The court, its personnel, the process server, the Department of Health, local health department, and petitioner shall maintain confidentiality of the name and any other identifying information regarding the individual tested and the results of the test as they relate to that individual, except as specifically authorized by this chapter.

~~[(13)]~~ (14) (a) Except as provided in Subsection ~~[(13)]~~ (14)(b), the petitioner shall remit payment for the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood.

(b) If the petitioner is an emergency services provider, the agency that employs the emergency services provider shall remit payment for the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood.

~~[(14)]~~ (15) The entity that draws the blood shall cause the blood and the payment for the analysis of the specimen to be delivered to the Department of Health for analysis.

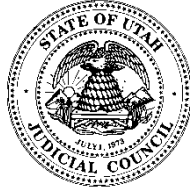
~~[(15)]~~ (16) If the individual is incarcerated, the incarcerating authority shall either draw

114 the blood specimen or shall pay the expenses of having the individual's blood drawn.

115 (17) The ex parte request or petition shall be sealed upon filing and made accessible

116 only to the petitioner, the subject of the petition, and their attorneys, upon court order.

Tab 5



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Policy and Planning Committee
From: Keisa L. Williams *Keisa L. Williams*
Date: June 15, 2016
Re: Rule CJA 4-403. Electronic signature and signature stamp use.

Rule CJA 04-0403 Electronic signature and signature stamp use. This rule establishes a uniform procedure for the use of judges' and commissioners' electronic signatures and signature stamps.

Some justice courts have adopted a policy of only using a clerk's first name and the first initial of their last name when the clerk is signing legal documents directly beneath the judges' electronic signature.

It is assumed that some courts are uncomfortable with having clerks' full names disclosed (even though it is public information). Although legal research likely shows that the use of initials or less than a full name is as valid as a full signature, it is recommended that we have a uniform practice statewide. The proposal would require the use of the clerks' full first and last name.

Encl. CJA 4-403

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

Rule 4-403. Electronic signature and signature stamp use.

Intent:

To establish a uniform procedure for the use of judges' and commissioners' electronic signatures and signature stamps.

Applicability:

This rule shall apply to all trial courts of record and not of record.

Statement of the Rule:

(1) A clerk may, with the prior approval of the judge or commissioner, use an electronic signature or signature stamp in lieu of obtaining the judge's or commissioner's signature on the following:

(1)(A) bail bonds from approved bondsmen;

(1)(B) bench warrants;

(1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases or when stipulated by both parties in contested cases;

(1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);

(1)(E) orders to show cause;

(1)(F) orders to take into custody;

(1)(G) summons;

(1)(H) supplemental procedure orders;

(1)(i) orders setting dates for hearing and for notice;

(1)(J) orders on motions requesting the Department of Workforce Services (DWS) to release information concerning a debtor, where neither DWS nor the debtor opposes the motion; and

(1)(K) orders for transportation of a person in custody to a court hearing.

(2) When a clerk is authorized to use a judge's or commissioner's electronic signature or signature stamp as provided in paragraph (1), the clerk shall sign his or her **full first and last** name on the document directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.

(3) All other documents requiring the judge's or commissioner's signature shall be personally signed by the judge or commissioner, unless the judge or commissioner, on a document by document basis, authorizes the clerk to use the judge's or commissioner's electronic signature or signature stamp in lieu of the judge's or commissioner's signature. On such documents, the clerk

shall indicate in writing that the electronic signature or signature stamp was used at the direction of the judge or commissioner and shall sign his or her full first and last name directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.