

**UTAH JUDICIAL COUNCIL
POLICY AND PLANNING COMMITTEE
MEETING AGENDA**

Judicial Council Room (N301), Matheson Courthouse
450 South State Street, Salt Lake City, Utah 84114
January 1, 2019 – 12:00 p.m. to 2:00 p.m.

12:00	Welcome and Approval of Minutes	Action	Tab 1	Judge Pullan
12:05	Review of Rules Back from Public Comment <i>(only one comment total):</i> <ul style="list-style-type: none"> - 3-401 – Office of General Counsel (updates to reflect current practice) - 3-414 – Court Security (permit court security director to possess weapons / color-coded ID badges) – ONE COMMENT - 4-403 – Electronic Signature and Stamp Use (for “court visitor” orders) - 4-701 – Failure to Appear (eliminates offense related to failure to appear, per S.B. 58) - 4-202.03 – Records Access (LPP and those providing services to juveniles, including PO for nonjudicial adjustments) - 4-202.09 – Miscellaneous (email record request requirements) 	Action	Tab 2	Michael Drechsel
12:10	Rule 4-202.02 Records Classification (juvenile abstract of judgment) <ul style="list-style-type: none"> - AMEND - [creates “private” record classification for abstracts of juvenile court judgments filed in district court] 	Discussion / Action	Tab 3	Michael Drechsel
12:20	Human Resources Professional Appearance Policy <ul style="list-style-type: none"> - Review proposed unified policy as amended since August 3 meeting 	Action	Tab 4	Rob Parkes
12:35	Recording / photography in courthouses: <ul style="list-style-type: none"> - Rule 4-401 - New rule to restrict still photography and audio/video recording in courthouses - 4-401.02 – Clarifies scope of rule relates to “personal” use of portable electronic devices in various parts of courthouse. - Detailed local orders that define areas in each courthouse where recording is permitted 	Discussion / Action	Tab 5	Judge Pullan / Michael Drechsel

1:10	Proposed New Rule - Consolidation of Probation: <ul style="list-style-type: none"> - Review edits since August 3 meeting - Discuss feedback from August 24 BDCJ meeting, including: <ul style="list-style-type: none"> - Seeking a statutory change to Utah Code 77-18-1(12)(b)(i) - Victim rights 	Discussion / Action	Tab 6	Judge Pullan
1:40	Problem Solving Court Working Group Update	Update	Tab 7	Judge Walton / Judge Fuchs
1:55	Review 2019 committee meeting dates	Discussion / Action		Michael Drechsel
2:00	Adjourn	Action		Judge Pullan

COMMITTEE WEB PAGE: <https://www.utcourts.gov/utc/policyplan/>

UPCOMING MEETING SCHEDULE:

Meetings are held at the Matheson Courthouse in the Judicial Council Room (N301), on the first Friday of each month from 12:00 noon to 2:00 p.m. (unless otherwise specifically noted):

October 5, 2018

November 2, 2018 – 9:00 a.m. to 5:00 p.m.

December 7, 2018

January 4, 2019

February 1, 2019 – 2nd Floor Board Room (N231)

March 1, 2019 – 2nd Floor West Conference Room (N213)

April 5, 2019

May 3, 2019 – 9:00 a.m. to 5:00 p.m. – 1st Floor Large Conference Room (W19A)

June 7, 2019

July 5, 2019

August 2, 2019

September 6, 2019

October 4, 2019

November 1, 2019 – 9:00 a.m. to 5:00 p.m.

December 6, 2019

TAB 1

Minutes from the August 3, 2018 Meeting

NOTES:

Policy and Planning Committee

Council Room – N31
Matheson Courthouse
450 South State Street
Salt Lake City, UT

DRAFT

August 3, 2018
12:00 – 2:00 pm

Members Present:

Judge Augustus Chin
Judge Derek Pullan, Chair
Judge Ryan Evershed
Judge Kara Pettit
Rob Rice

Members Excused:

Judge John Walton

Staff:

Michael Drechsel
Minhvan Brimhall

Guests:

Shane Bahr
Kim Allard
Chris Palmer
Rob Parkes

(1) Welcome and Approval of Minutes:

Judge Pullan welcomed the members to the meeting. Judge Pullan addressed the June 1, 2018 minutes. There being no changes, Judge Chin made a motion to approve the minutes as written. Rob Rice seconded the motion and it passed unanimously.

Due to the Problem Solving Court working group meeting, Judge Walton was excused from this meeting.

Michael Drechsel was introduced as the new AOC staff member replacing Keisa Williams.

(2) CJA 4-508. Guidelines for Ruling on a Motion to Waive Fees:

The current CJA 4-508 form states that the form will be approved by the Board of District Court Judges (or the Board of Juvenile Court Judges, as relevant) on motion to waive fee matters. The proposed amendment modifies the rule to state that the form will now be sent to the Judicial Council's Standing Committee on Court Forms for approval. Upon approval within this committee, Mr. Drechsel will present the proposed changes to the Judicial Council and send the rule out for public comment.

Mr. Rice moved to adopt the amendment as recommended. Judge Kara Pettit seconded the motion and it passed unanimously.

(3) CJA 1-205. Standing and ad hoc committees:

Mr. Drechsel presented two proposed changes to Code of Judicial Administration rule 1-205:

Section (1)(B)(xiii) would be amended to include a representative from the Utah Indigent Defense Commission to the Committee on Pretrial Release and Supervision. The addition of a member from the Indigent Commission allows for input from that commission (which has important overlapping interests with the committee), as well as Ms. Williams' continuation participation with the committee.

Section (1)(B)(xiv) would include a court commissioner on the Committee on Court Forms. Commissioner T. Patrick Casey had been serving as a member of the committee as a representative from the Online Court Assistant Program. Commissioner Casey has retired. The Committee on Court Forms would benefit from input from a Court Commissioner as they move forward towards completion of the LPP and OCAP forms.

There was very brief discussion regarding how large some committees seem to be getting, with some minor concern that too many seats on committees makes it difficult to schedule meetings and get work accomplished. But because the requests for these proposed additions to these committee memberships originated with the committees themselves, it is assumed by Policy and Planning that these committees have good reason to request the additional members.

With no additional discussion, Judge Pettit moved to approve the proposed changes. Judge Chin seconded the motion and it passed unanimously.

(4) BDCJ Proposed Rule Change re: Consolidation of Probation:

This agenda item was a continued discussion (previously on the agenda April 6, 2018 and June 1, 2018) of practicalities regarding the Board of District Court Judges' proposed rule which would allow probation supervision and management to be consolidated before a single district court judge. Under the current system, the district courts lack the technological capacity to have a court clerk in one district enter minutes and orders in the records of another district. The committee discussed the need to allow for clerks to access and enter minutes and orders in consolidation of probation cases. The current version of the proposed rule only requires minute entry and orders when a person is being supervised by Adult Probation and Parole. The committee discussed that, once consolidated, the supervising judge would have access to all of the probation-related records. But a sending judge in another district would have an incomplete file as minutes and prior consolidation orders would not exist in the sending judge's records. Ms. Allard discussed that the court clerks have indicated they would be willing to enter minutes and orders within their jurisdiction, as well as provide information from the supervising judge to any sending judge upon termination of probation in the case. The committee discussed whether the specific details of the actual process for sharing probation-related records need to be in this

proposed rule. It was agreed that the internal process for actually delivering those records from the supervising judge to the sending judge did not need to be included in the proposed rule.

Mr. Drechsel reviewed the sentencing statute for criminal cases (Utah Code § 77-18-1(12)(b)) which indicates that upon filing of the affidavit alleging a violation of probation, “the court that authorized probation” will determine if the affidavit establishes probable cause. Mr. Drechsel noted that this language is unique within the scheme of the statute, meaning there are no other references to “the court that authorized probation” in the statute. In order for this proposed rule to comply with this statute, it appears that the supervising court would need to be the authorizing court. The committee discussed the need for a legislative change to the statutory language, or whether the rule could be drafted in such a way that the supervising court will authorize probation through the probation consolidation order. The committee does not believe that the language in the statute necessarily needs to be amended to permit the creation of this proposed rule.

The committee reviewed and made minor language changes for consistency throughout the rule and tasked Mr. Drechsel with additional minor revisions.

The Board of District Court judges will be meeting on August 24, 2018. Mr. Drechsel will present the proposed draft of the rule to the Board and hopefully, upon agreement from the BDCJ, have a rule to present at the next Judicial Conference.

The committee did not entertain a motion to approve changes to this rule at this time, as future discussion of the proposed rule is anticipated at the September 7 committee meeting.

(5) Human Resources Professional Appearance Policy:

Since the time that this matter was previously before the Policy and Planning Committee, Mr. Parkes met with the Management Committee in reviewing changes made to the policy. The Management Committee posed some questions:

1. Should these policies be: a) standard throughout the Utah court system; b) determined by each district; or c) determined by each courthouse location?
2. Should the requirement of wearing a tie in the courtroom be removed?

Mr. Parkes reported that the management committee commented that the differences between the normal dress code and the courtroom dress code is very slight. Some members of the management committee voiced that the requirement of wearing a tie in the courtroom should be removed, while others believed that polo shirts should be permitted. According to Mr. Parkes, the Management Committee made several edits to the language of the policy, to align with consistency of the entire policy, as well as made edits of photos used in the policy.

Mr. Parkes reviewed that the reason these policies are being discussed is that Third District changed their dress standard that allowed for more flexibility in clothing. This was not changed in other districts, and such changes were not compliant with the now-existing policies in effect. Judge Pullan noted that the standards of dress should be raised not lowered, while in the

courtroom. Judge Pullan also notes that a single standard should be implemented statewide whether in court or out of court. Judge Pettit asked Mr. Parkes if he has received comments regarding the morale of court employees required to wear a tie to work every day. Mr. Parkes was unable to speak to this.

This committee agrees that the standard needs to be statewide, for both courtroom and non-courtroom dress. This committee could not agree that polo shirts should be allowed in the courtroom. There was discussion regarding a more formal dress code being required for court employees who are addressing the court during hearings (i.e., juvenile probation officers). There was discussion about the differences in role between various court employees and what it means to address the court. The committee discussed removing the distinction between a “business casual” dress guideline and a “courtroom” guideline (as the differences really come down to how a tie and collared polo shirts fit into the schemes). Some committee members believed the guidelines should read that “blazers, suits, or tie are optional, but preferred, while in court.”

After significant discussion on the matter, and without consensus among the committee members, the committee requested that Mr. Parkes develop one standard policy for court house appropriate attire and incorporate the items as discussed. Mr. Parkes will report at the next meeting.

Mr. Rice made a motion that whatever policy is adopted, formal or informal, be a statewide policy, without regional variations. Judges Pullan, Chin, and Evershed voted in favor of the motion. Judge Pettit opposed the motion. The motion passed by majority vote. Mr. Parkes will return to this committee on September 7 to brief the committee on the single dress guideline. The matter will then be subject to further discussion.

(6) CJA 3-414. Court Security:

Chris Palmer presented to the committee. He noted that this requested amendment revolves around the needs and limitations of Salt Lake County. He has spoken with the sheriff's association and there is a committee being formed to discuss security staffing levels. That committee has not yet met. Chris anticipates some resistance to getting to his desired staffing levels, since this will likely be perceived as an unfunded mandate. There was discussion about NCSC materials (provided by Mr. Palmer) regarding best practices for staffing and steps to implement those best practices. These NCSC best practices provide some basis for requesting security staffing at certain levels. Chair Pullan wondered why staffing levels is a conversation that needs to happen in the first place where it is about public safety, which is central to the sheriff's primary purposes.

Chair Pullan asked how viable it would be to have a State Marshal's Service (a state equivalent of the federal system). Mr. Palmer noted that there has been previous consideration of such a system and that it was predicted to run approximately \$20m annually. If implemented, this would likely result in the second largest personnel type in the courts. The courts have \$8.2m projected for annual bailiff / security expenses. The committee discussed whether private contractors could be hired with that money to provide better service than what is currently provided. Mr. Palmer was unequivocal that it would not be possible to get services as good or

better with that amount of money. Mr. Palmer discussed other security options than are employed around the state based upon the unique circumstances of each location, including, for instance, courts that don't have front door screening.

Chair Pullan wondered what the impact of amending Rule 3-414 would be on important relationships statewide. Mr. Palmer would like to work with the sheriffs' association committee to try to find an agreement first. Mr. Palmer would also like to present to the legislature a change in the statute that may clarify the obligations regarding staffing levels. Chair Pullan wondered if we could align our interests with the sheriffs and go to the legislature together. Mr. Palmer believes the interests are not that closely aligned.

Mr. Palmer will work with the sheriffs' association committee and then bring this back before this committee in September once he knows more about how that might work out. Chair Pullan would like to seek additional input from the judicial council after Mr. Palmer has been able to meet with that sheriffs' association committee. It is understood that, at this time, that committee will be comprised of rural sheriffs, urban sheriffs, and judges.

(7) Problem Solving Court Working Group Update

Due to his participation with the Problem Solving Court Working Group, Judge Walton was unable to provide an update. This item will be carried over for discussion at the next meeting.

(8) Adjourn

The next meeting is scheduled for September 7, 2018 in the Judicial Council room at 12:00 p.m. There being no other business the meeting was adjourned at 2:02 p.m.

TAB 2

Review of Rules Back from Public Comment

NOTES: These rules were last discussed by the committee on May 4, 2018. Upon the committee's recommendation, the Judicial Council approved these items for public comment on June 25, 2018. The following comments were received for each proposed rule:

3-401 – Office of General Counsel (updates to reflect current practice):

NO COMMENTS

3-414 – Court Security (permit court security director to possess weapons / color-coded ID badges):

ONE COMMENT

"I feel that ANY member of law enforcement and court staff should be able to carry into a courthouse (when qualified) for the basic purpose of protection."

- Kim Ostler (June 26, 2018 at 5:47pm)

4-403 – Electronic Signature and Stamp Use (for "court visitor" orders):

NO COMMENTS

4-701 – Failure to Appear (eliminates offense related to failure to appear, per S.B. 58):

NO COMMENTS

4-202.03 – Records Access (LPP and those providing services to juveniles, including PO for nonjudicial adjustments):

NO COMMENTS

4-202.09 – Miscellaneous (email record request requirements):

NO COMMENTS

The published version of the proposed amendments to each rule are attached for your reference.

Rule 3-401. Office of General Counsel.

Intent:

To establish the office of General Counsel within the Administrative Office.

To identify the office of General Counsel as the primary authority for coordinating the provision of legal services to the judiciary.

To establish uniform procedures governing the provision of legal services to the judiciary.

To define the relationship between the office of General Counsel and the Office of the Attorney General.

Applicability:

This rule shall apply to the judiciary.

Statement of the Rule:

(1) Establishment of office of general counsel. The office of General Counsel is established within the Administrative Office to provide legal services to the judiciary.

(2) Responsibility. The office of General Counsel shall have primary responsibility for providing the following legal services:

(A) informal advice and counsel;

(B) written opinions;

(C) legislative drafting;

(D) legal representation in administrative and judicial proceedings where the claimant is seeking declaratory, injunctive, or extraordinary relief or where risk management coverage is not provided;

(E) negotiation, drafting, and review of contracts and leases;

(F) consultation, drafting, and review of judicial policies and procedures;

(G) staff support to committees established by the Council and the Supreme Court; and

(H) coordination of and arrangement for legal representation by the Attorney General's Office or outside counsel in appropriate cases.

(3) Protocol for requesting legal assistance.

(A) Courts of record.

(i) Non-judicial officers and employees of the state.

(a) All requests for legal assistance, other than requests for informal advice or counsel, shall be in writing and directed to the appropriate state level administrator, who shall refer appropriate requests to the office of General Counsel.

(b) All requests for legal representation and indemnification shall be made in writing by the employee or officer who is named as a defendant. The request shall be made within ten days of service and directed to the office of General Counsel. A copy of the request shall be sent by the individual officer or employee to the Office of the Attorney General at that time. General Counsel shall be responsible for coordinating the legal representation of non-judicial officers and employees with the Attorney General's Office.

(ii) Judicial officers.

(a) All requests for legal assistance from judicial officers, other than requests for informal advice or counsel, shall be in writing and directed to General Counsel. ~~In cases where there are conflicts, time constraints or other judicial priorities, General Counsel shall consult with the presiding officer of the Council prior to responding to such requests. General Counsel shall not provide legal counsel or advice to judicial officers on issues which are pending before that court for resolution.~~

(b) All requests for legal representation and indemnification shall be made ~~in writing~~ by the judicial officer who is named as a defendant. The request shall be made within ten days of service and directed to General Counsel. ~~A copy of the request shall be sent by the judicial officer to the Office of the Attorney General at that time.~~ General Counsel shall be responsible for coordinating the legal representation of judicial officers with the Attorney General's Office.

(B) Courts not of record. All requests for legal assistance, representation and indemnification shall be made in writing by the officer or employee seeking assistance and directed to the appropriate governmental entity. ~~A copy of the request for assistance shall be sent by the officer or employee to the Office of General Counsel at that time.~~

(C) Judicial council, boards of judges, committees and task forces. All requests for legal assistance from the Council, the Boards, committees or task forces established by the Council or the Supreme Court shall be in writing and directed to General Counsel from the presiding officer of the Council, Board, committee or task force.

~~(D) Code of judicial conduct. All requests for legal advice concerning the Code of Judicial Conduct shall be made by individual judges in writing and directed to the Office of General Counsel for referral to the Ethics Advisory Committee.~~

(4) Relationship to attorney general's office. The provision of legal services to the judiciary by the Office of General Counsel and the Office of the Attorney General shall be governed by ~~the Memorandum of Understanding entered into between the Council and the Attorney General's office which shall be reviewed and updated annually if appropriate~~ this rule and Utah Code section 63G-7-901.

1 **Rule 3-414. Court security.**

2 **Intent:**

3 To promote the safety and well-being of judicial personnel, members of the bar and citizens
4 utilizing the courts.

5 To establish uniform policies for court security consistent with Section 78A-2-203.

6 To delineate responsibility for security measures by the Council, the administrative office, local
7 judges, court executives, and law enforcement agencies.

8 **Applicability:**

9 This rule shall apply to all courts.

10 Section (7) on weapons shall not apply to trial exhibits.

11 **Statement of the Rule:**

12 (1) Definitions.

13 (1)(A) Court security. Court security includes the procedures, technology, and architectural
14 features needed to ensure the safety and protection of individuals within the courthouse and the
15 integrity of the judicial process. Court security is the joint effort of law enforcement and the
16 judiciary to prevent or control such problems as, disorderly conduct, physical violence, theft,
17 bomb threats, prisoner escapes, assassinations, and hostage situations.

18 (1)(B) A key manager is a person authorized by the court executive or Deputy State Court
19 Administrator to issue, retrieve, activate, and deactivate keys and/or access cards to courthouses
20 in their districts.

21 (1)(C) Presiding judge. As used in this rule, presiding judge includes the judge of a single-judge
22 courthouse. The presiding judge may delegate the responsibilities of this rule to another judge.

23 (2) Responsibilities of the Council.

24 (2)(A) The Council shall ensure that all design plans for renovation or new construction of court
25 facilities are reviewed for compliance with The Utah Judicial System Design Standards.

26 (2)(B) As a condition for the certification of a new justice court or the continued certification of
27 an existing justice court, the justice court shall file an acceptable local security plan with the
28 Court Security Director and shall file amendments to the plan with the Court Security Director as
29 amendments are made. The local security plan shall provide for the presence of a law
30 enforcement officer or constable in court during court sessions or a reasonable response time by
31 the local law enforcement agency upon call of the court.

32 (3) Responsibilities of the Administrative Office.

(3)(A) The state court administrator shall appoint a Court Security Director who shall:

(3)(A)(i) review and keep on file copies of all local security plans; and

(3)(A)(ii) periodically visit the various court jurisdictions to offer assistance in the development or implementation of local security plans.

(3)(B) The state court administrator shall appoint a court executive in each judicial district to serve as a local security coordinator.

(3)(C) The Court Security Director shall promulgate general security guidelines to assist local jurisdictions in the development of court security plans.

(4) Responsibilities of the court executive.

(4)(A) The court executive designated as the local security coordinator shall:

(4)(A)(i) in consultation with the law enforcement administrator responsible for security and with the judges responsible for the security plan, develop and implement a local security plan for each court of record facility within the district;

(4)(A)(ii) annually review the local security plan with the presiding judge and the law enforcement administrator to identify deficiencies in the plan and problems with implementation;

(4)(A)(iii) file an acceptable local security plan with the Court Security Director; and

(4)(A)(iv) file amendments to the plan with the Court Security Director as amendments are made.

(4)(B) The local security plan for a courthouse and any amendments to it shall be approved by a majority of the judges of the district of any court level regularly occupying the courthouse. Voting shall be without regard to court level. As used in this subsection the term “judges of the district of any court level occupying the courthouse” shall include all judges of the district court of the district and all judges of the juvenile court of the district regardless of whether a particular judge occupies the courthouse so long as at least one judge of that court level occupies the courthouse. The term also includes the justices of the Supreme Court, the judges of the Court of Appeals and all justice court judges who actually occupy the courthouse.

(4)(C) The court executive shall provide a copy of the current local security plan and annual training on the plan to all court personnel, volunteers and security personnel.

(4)(D) The local plan shall clearly delineate the responsibilities between court personnel and law enforcement personnel for all areas and activities in and about the courthouse.

(4)(E) The court clerk or probation officer, under the supervision of the court executive, shall provide timely notice to transportation officers of required court appearances and cancellation of

appearances for individuals in custody. The court shall consolidate scheduled appearances whenever practicable and otherwise cooperate with transportation officers to avoid unnecessary court appearances.

(4)(F) To the extent possible, the clerk of the court shall establish certain days of the week and times of day for court appearances of persons in custody in order to permit transportation officers reasonable preparation and planning time. The court shall give priority to cases in which a person in custody appears in order to prevent increased security risks resulting from lengthy waiting periods.

(5) Responsibilities of law enforcement agencies.

(5)(A) The law enforcement agency with responsibility for security of the courthouse, through a law enforcement administrator, shall:

(5)(A)(i) coordinate all law enforcement activities within the courthouse necessary for implementation of the security plan and for response to emergencies;

(5)(A)(ii) cooperate with the court executive in the development and implementation of a local security plan;

(5)(A)(iii) provide local law enforcement personnel with training as provided in this rule;

(5)(A)(iv) provide court;

(5)(A)(v) provide building and perimeter security.

(5)(B) The law enforcement agency responsible for court security shall be as follows:

(5)(B)(i) The Department of Public Safety for the Supreme Court and the Court of Appeals when they are in session in Salt Lake County. When convening outside of Salt Lake County, security shall be provided by the county sheriff. The Department of Public Safety may call upon the Salt Lake County Sheriff for additional assistance as necessary when the appellate courts are convening in Salt Lake County.

(5)(B)(ii) The county sheriff for district courts and juvenile courts within the county.

(5)(B)(iii) The county sheriff for a county justice court and the municipal police for a municipal justice court. The county or municipality may provide a constable to provide security services to the justice court. If a municipality has no police department or constable, then the law enforcement agency with which the municipality contracts shall provide security services to the justice court.

(6) Court bailiffs.

(6)(A) Qualifications. Bailiffs shall be “law enforcement officers” as defined in Section 53-13-103. At the discretion of the law enforcement administrator and with the consent of the presiding judge, bailiffs may be “special function officers” as defined by Section 53-13-105.

(6)(B) Training. Prior to exercising the authority of their office, bailiffs shall satisfactorily complete the basic course at a certified peace officer training academy or pass a waiver examination and be certified. Bailiffs shall complete 40 hours of annual training as established by the Division of Peace Officer Standards and Training. Bailiffs shall receive annual training on the elements of the court security plan, emergency medical assistance and the use of firearms.

(6)(C) Physical and mental condition. Court bailiffs shall be of suitable physical and mental condition to ensure that they are capable of providing a high level of security for the court and to ensure the safety and welfare of individuals participating in court proceedings. Bailiffs shall be capable of responding appropriately to any potential or actual breach of security.

(6)(D) Appointment. The appointment of a bailiff is subject to the concurrence of the presiding judge.

(6)(E) Supervision. The court bailiff shall be supervised by the appointing authority and perform duties in compliance with directives of the appointing authority.

(6)(F) Responsibilities. Court bailiff responsibilities shall include but are not limited to the following.

(6)(F)(i) The bailiff shall prevent persons in custody from having physical contact with anyone other than the members of the defense counsel’s team. Visitation shall be in accordance with jail and prison policies and be restricted to those facilities.

(6)(F)(ii) The bailiff shall observe all persons entering the courtroom, their movement and their activities. The bailiff shall control access to the bench and other restricted areas.

(6)(F)(iii) The bailiff shall search the interior of the courtroom and restricted areas prior to the arrival of any other court participants. Similar searches shall be conducted following recesses to ensure the room is clear of weapons, explosives, or contraband.

(6)(F)(iv) Bailiffs shall wear the official uniform of the law enforcement agency by whom they are employed.

(6)(F)(v) Bailiffs shall comply with the directives of the judge or commissioner with respect to security related activities and shall perform other duties incidental to the efficient functioning of the court which do not detract from security functions. Activities wholly unrelated to security or function of the court, including personal errands, shall not be requested nor performed.

(6)(F)(vi) Bailiffs shall perform responsibilities provided for in the local court security plan.

(6)(F)(vii) The bailiff shall maintain a clear line of sight of all courtroom participants and shall be between individuals who are in custody and courtroom exits.

(7) Weapons.

(7)(A) Weapons generally.

(7)(A)(i) A courthouse is presumed to be free of all weapons and firearms unless a local security plan provides otherwise in accordance with this rule. No person may possess an explosive device in a courthouse. Except as permitted by this rule, no person may possess a firearm, ammunition, or dangerous weapon in a courthouse.

(7)(A)(ii) All firearms permitted under this rule and a local security plan:

(7)(A)(ii)(a) and carried upon the person shall be concealed unless worn as part of a public law enforcement agency uniform;

(7)(A)(ii)(b) Shall remain in the physical possession of the person authorized to possess it and shall not be placed in a drawer, cabinet, briefcase or purse unless the person has physical possession of the briefcase or purse or immediate control of the drawer or cabinet or the drawer or cabinet is locked; and

(7)(A)(ii)(c) Shall be secured in a holster with a restraining device.

(7)(B) Persons authorized to possess a firearm or other weapon.

(7)(B)(i) The following officers may possess a firearm and ammunition in a courthouse if the firearm is issued by or approved by the officer's appointing authority, if possession is required or permitted by the officer's appointing authority and the local security plan, and if the officer presents valid picture identification:

(7)(B)(i)(a) "Law enforcement officer" as defined in Section 53-13-103;

(7)(B)(i)(b) "correctional officer" as defined in Section 53-13-104;

(7)(B)(i)(c) "special function officer" as defined in Section 53-13-105;

(7)(B)(i)(d) "Federal officer" as defined in Section 53-13-106; and

(7)(B)(i)(e) a private security officer, licensed under Utah Code Title 58, Chapter 63, Security Personnel Licensing Act, hired by the court or the court's banker to transport money.

(7)(B)(ii) A judge or law enforcement official as defined in Section 53-5-711 may possess in a courthouse a firearm and ammunition for which the judge or law enforcement official has a valid certificate of qualification issued under Section 53-5-711 if possession is permitted by the local security plan.

(7)(B)(iii) A court commissioner may possess in a courthouse a firearm and ammunition for which the court commissioner has a concealed weapons permit, but only if the court commissioner has obtained the training and annual retraining necessary to qualify for a certificate issued under Section 53-5-711 and if possession is permitted by the local security plan.

(7)(B)(iv) The Court Security Director may possess in a courthouse a firearm and ammunition for which the court security director has a concealed weapons permit, but only if possession is permitted by the local security plan and the director has obtained the training and annual retraining necessary to:

(7)(B)(iv)(a) qualify for a certificate issued under Section 53-5-711,

(7)(B)(iv)(b) qualify as a Utah police officer firearms instructor in accordance with Utah Administrative Code R728-502-9(4), or

(7)(B)(iv)(c) qualify as a retired law enforcement officer in accordance with United States Code Title 18, Part I, Chapter 44, Section 926C.

(7)(B)(iv)(v) A person permitted under subsections (i), (ii), ~~or (iii)~~, or (iv) to possess a firearm nevertheless shall not possess a firearm in a courthouse if the person is appearing at the courthouse as a party to litigation. A person possessing a firearm in a courtroom shall notify the bailiff or the judge.

~~(7)(B)(v)~~ (vi) If permitted by the local security plan, court personnel and volunteers may possess in a courthouse an otherwise legal personal protection device other than a firearm. Court personnel and volunteers shall not possess a personal protection device while appearing as a party to litigation. Court personnel and volunteers shall not possess a firearm while on duty.

(7)(C) Firearm training requirements.

(7)(C)(i) To requalify for a certificate issued under Section 53-5-711 a judge shall annually complete with a passing score a range qualification course for judges and law enforcement officials established by the Department of Public Safety or a course established by any law enforcement agency of the state of Utah or its political subdivision for the requalification of its officers.

(7)(C)(ii) The cost of firearms, ammunition, initial qualification, requalification and any other equipment, supplies or fees associated with a certificate of qualification issued under Section 53-5-711 shall be the responsibility of the judge or court commissioner and shall not be paid from state funds.

(8) Security devices and procedures.

(8)(A) Metal detectors. The use of metal detectors or other screening devices, ~~W~~where present, shall be used by the law enforcement agency responsible for security/bailiff services.

(8)(B) Physical search. Searches of persons in or about the courthouse or courtroom shall be conducted at the discretion of the law enforcement agency responsible for security when the local law enforcement agency has reason to believe that the person to be searched is carrying a weapon or contraband into or out of the courthouse or when the court so orders. No other person is authorized to conduct such searches. Written notice of this policy shall be posted in a conspicuous place at the entrance to all court facilities.

(8)(C) All persons in custody shall be kept in a holding cell, restrained by restraining devices, or supervised at all times while in court unless otherwise specifically ordered by the judge in whose courtroom the individual appears.

(8)(D) Extra security. In anticipated high risk situations or a highly publicized case, the law enforcement agency responsible for security should, on its own initiative or in response to an order of the court, provide extra security including additional personnel, controlled access, etc. A written operational plan outlining and assigning security duties should be developed in conjunction with the presiding judge, the court executive and the Court Security Director.

(8)(E) Courthouse Access Control. Only judges, court staff, and security and maintenance staff assigned to the courthouse will be granted access card/keys and only to those areas of the courthouse to which the individual needs access. No access cards or keys shall be issued solely for convenience purposes. Any exceptions to this rule must be pre-approved, in writing, by the Deputy State Court Administrator.

(8)(E)(i) Access cards or keys will be issued by a key manager only with the prior written authorization of the court executive(s) or Deputy State Court Administrator. Detailed recording of all card/key transactions will be the responsibility of the key manager. Supervisors shall recover all issued keys/cards from court personnel who are terminated, suspended or transferred or if loss of privileges is part of an adverse personnel action. Supervisors will return the cards/keys to the court executive who will deactivate the access card. If the access card is not returned as required, the supervisor will immediately contact the key manager to deactivate the card.

(8)(E)(ii) Locally produced proxy access cards and badges issued to non-court employees (excluding assigned DFCM and security) will incorporate a distinctive background color to visually identify personal access levels. Access badges issued to persons with an approved local background check will use an orange background and those without a locally approved background check will be issued a badge with a yellow background.

(8)(E)(ii)(iii) Court personnel shall possess their court-issued identification at all times when in the courthouse or staff parking area. Court personnel may not loan their identification cards,

229 access cards or keys to others and must report any lost or missing identification or access card
230 key to the key manager or their direct supervisor as soon as possible after the loss is discovered.
231 Any lost access card will be deactivated before a replacement card is issued.

232 ~~(8)(E)(iii)(iv)~~ Court personnel with a court-issued identification card may bypass security
233 screening only when they are assigned to that particular courthouse. Court personnel from other
234 courthouses will be required to successfully pass through the security screening area before
235 being allowed entry.

236 ~~(8)(E)(iv)(v)~~ The court executive will undertake a semiannual review of access card records to
237 ensure that no unauthorized use is occurring.

238 (8)(F) In order to protect the safety and welfare of court customers, no one is permitted to block
239 the entry or exit of a courthouse and no one is permitted to picket, parade, proselytize,
240 demonstrate or distribute leaflets, pamphlets, brochures or other materials inside a courthouse.

241 (9) Transportation of persons in custody.

242 (9)(A) The federal, state, county or municipal agency with physical custody of a person whose
243 appearance in court is required is responsible for transportation of that person to and from the
244 courtroom.

245 (9)(B) The transportation officer shall:

246 (9)(B)(i) remain present at all times during court appearances;

247 (9)(B)(ii) be responsible for the custody of such persons;

248 (9)(B)(iii) Support the court bailiff in the preservation of peace in the courthouse and courtroom;

249 (9)(B)(iv) Provide advance notice of the transportation and of any extraordinary security
250 requirements to the law enforcement agency responsible for court security, to the judge, and to
251 the bailiff;

252 (9)(B)(v) Comply with any regulations of the county sheriff regarding the transportation of
253 persons in custody to court; and

254 (9)(B)(vi) return the person in custody to the proper place of confinement.

255 (9)(C) The law enforcement agency responsible for court security shall provide assistance to the
256 transportation officer as circumstances dictate.

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

2 **Intent:**

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

5 **Applicability:**

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

7 **Statement of the Rule:**

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

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

11 (1)(B) bench warrants;

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

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

15 (1)(E) orders to show cause;

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

17 (1)(G) summons;

18 (1)(H) supplemental procedure orders;

19 (1)(I) orders setting dates for hearing and for notice;

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

22 (1)(K) orders for transportation of a person in custody to a court hearing; and

23 (1)(L) orders appointing a court visitor.

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

27 (3) All other documents requiring the judge's or commissioner's signature shall be personally signed
28 by the judge or commissioner, unless the judge or commissioner, on a document by document basis,
29 authorizes the clerk to use the judge's or commissioner's electronic signature or signature stamp in lieu of
30 the judge's or commissioner's signature. On such documents, the clerk shall indicate in writing that the
31 electronic signature or signature stamp was used at the direction of the judge or commissioner and shall
32 sign his or her name directly beneath the electronic signature or stamped imprint of the judge's or
33 commissioner's signature.

Rule 4-701. Failure to appear.

Intent:

To establish a procedure for handling cases in which the defendant fails to appear and fails to forfeit bail.

Applicability:

This rule shall apply to cases in which the defendant's appearance is not required.

Statement of the Rule:

(1) When a case is filed, the clerk may mail to the defendant a notice indicating the bail amount. If the defendant fails to appear or forfeit the bail amount within fourteen days after receiving a citation, the clerk may increase the bail amount by \$50 and mail the defendant a delinquency notice.

(2)(A) If the defendant fails to appear or forfeit the bail amount within forty days after receiving a citation, the court may increase the bail amount by \$75 and issue a warrant for failure to appear; ~~a separate offense of Failure to Appear need not be filed.~~

(2)(B) If the defendant is a juvenile, the court may issue a bench warrant or order to take the defendant into custody. If a bench warrant is issued, a special designation or "flag" shall be placed on the warrant indicating that the defendant is a juvenile.

(3) If a minor fails to appear in juvenile court on a charge which would constitute an infraction if committed by an adult:

(3)(A) The court shall not issue an Order for Detention.

(3)(B) The court may authorize the probation department to file an order to show cause.

Rule 4-202.03. Records access.

Intent:

To identify who may access court records.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Public Court Records.** Any person may access a public court record.

(2) **Sealed Court Records.** An adoptive parent or adult adoptee may obtain a certified copy of the adoption decree upon request and presentation of positive identification. Otherwise, no one may access a sealed court record except by order of the court. A judge may review a sealed record when the circumstances warrant.

(3) **Private Court Records.** The following may access a private court record:

(3)(A) the subject of the record;

(3)(B) the parent or guardian of the subject of the record if the subject is an unemancipated minor or under a legal incapacity;

(3)(C) a party, ~~or~~ attorney for a party, or licensed paralegal practitioner for a party to litigation in which the record is filed;

(3)(D) an interested person to an action under the Uniform Probate Code;

(3)(E) the person who submitted the record;

(3)(F) the attorney or licensed paralegal practitioner for a person who may access the private record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(3)(G) an individual with a release from a person who may access the private record signed and notarized no more than 90 days before the date the request is made;

(3)(H) anyone by court order;

(3)(I) court personnel, but only to achieve the purpose for which the record was submitted;

(3)(J) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(3)(K) a governmental entity with which the record is shared under Rule 4-202.10.

(4) **Protected Court Records.** The following may access a protected court record:

(4)(A) the person or governmental entity whose interests are protected by closure;

(4)(B) the parent or guardian of the person whose interests are protected by closure if the person is an unemancipated minor or under a legal incapacity;

(4)(C) the person who submitted the record;

(4)(D) the attorney or licensed paralegal practitioner for the person who submitted the record or for the person or governmental entity whose interests are protected by closure or for the parent or guardian of the person if the person is an unemancipated minor or under a

37 legal incapacity or an individual who has a power of attorney from such person or
38 governmental entity;

39 (4)(E) an individual with a release from the person who submitted the record or from the
40 person or governmental entity whose interests are protected by closure or from the
41 parent or guardian of the person if the person is an unemancipated minor or under a legal
42 incapacity signed and notarized no more than 90 days before the date the request is
43 made;

44 (4)(F) a party, ~~or~~ attorney for a party, or licensed paralegal practitioner to litigation in which
45 the record is filed;

46 (4)(G) anyone by court order;

47 (4)(H) court personnel, but only to achieve the purpose for which the record was submitted;

48 (4)(I) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

49 (4)(J) a governmental entity with which the record is shared under Rule 4-202.10.

50 (5) **Juvenile Court Social Records.** The following may access a juvenile court social record:

51 (5)(A) the subject of the record, if 18 years of age or over;

52 (5)(B) a parent or guardian of the subject of the record if the subject is
53 an unemancipated minor;

54 (5)(C) an attorney or person with power of attorney for the subject of the record;

55 (5)(D) a person with a notarized release from the subject of the record or the subject's legal
56 representative dated no more than 90 days before the date the request is made;

57 (5)(E) the subject of the record's therapists and evaluators;

58 (5)(F) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad
59 Litem, and an Attorney General involved in the litigation in which the record is filed;

60 (5)(G) a governmental entity charged with custody, guardianship, protective supervision,
61 probation or parole of the subject of the record including juvenile probation, Division of
62 Child and Family Services and Juvenile Justice Services;

63 (5)(H) the Department of Human Services, school districts and vendors with whom they or
64 the courts contract (who shall not permit further access to the record), but only for court
65 business;

66 (5)(I) court personnel, but only to achieve the purpose for which the record was submitted;

67 (5)(J) a governmental entity with which the record is shared under Rule 4-202.10;

68 (5)(K) the person who submitted the record;

69 (5)(L) public or private individuals or agencies providing services to the subject of the record
70 or to the subject's family, including services provided pursuant to a nonjudicial
71 adjustment, if a probation officer determines that access is necessary to provide effective
72 services.

73 (5)(~~L~~M) anyone by court order.

(5)(~~MN~~) Juvenile court competency evaluations, psychological evaluations, psychiatric evaluations, psychosexual evaluations, sex behavior risk assessments, and other sensitive mental health and medical records may be accessed only by:

(5)(~~MN~~)(i) the subject of the record, if age 18 or over;

(5)(~~MN~~)(ii) an attorney or person with power of attorney for the subject of the record;

(5)(~~MN~~)(iii) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(~~MN~~)(iv) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(~~MN~~)(v) court personnel, but only to achieve the purpose for which the record was submitted;

(5)(~~MN~~)(vi) anyone by court order.

(5)(~~NO~~) When records may be accessed only by court order, a juvenile court judge will permit access consistent with Rule 4-202.04 as required by due process of law in a manner that serves the best interest of the child.

(6) **Juvenile Court Legal Records.** The following may access a juvenile court legal record:

(6)(A) all who may access the juvenile court social record;

(6)(B) a law enforcement agency;

(6)(C) a children's justice center;

(6)(D) a public or private individuals or agencies providing services to the subject of the record or to the subject's family; and

(6)(E) the victim of a delinquent act may access the disposition order entered against the defendant.

(7) **Safeguarded Court Records.** The following may access a safeguarded record:

(7)(A) the subject of the record;

(7)(B) the person who submitted the record;

(7)(C) the attorney or licensed paralegal practitioner for a person who may access the record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(7)(D) an individual with a release from a person who may access the record signed and notarized no more than 90 days before the date the request is made;

(7)(E) anyone by court order;

(7)(F) court personnel, but only to achieve the purpose for which the record was submitted;

(7)(G) a person provided the record under Rule 4-202.04 or Rule 4-202.05;

(7)(H) a governmental entity with which the record is shared under Rule 4-202.10; and

111 (7)(l) a person given access to the record in order for juvenile probation to fulfill a probation
112 responsibility.

113 (8) Court personnel shall permit access to court records only by authorized persons. The court
114 may order anyone who accesses a non-public record not to permit further access, the violation
115 of which may be contempt of court.

116 (9) If a court or court employee in an official capacity is a party in a case, the records of the party
117 and the party's attorney are subject to the rules of discovery and evidence to the same extent
118 as any other party.

Rule 4-202.09. Miscellaneous.

Intent:

To set forth miscellaneous provisions for these rules.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) The judicial branch shall provide a person with a certified copy of a record if the requester has a right to inspect it, the requester identifies the record with reasonable specificity, and the requester pays the fees.

(2)(A) The judicial branch is not required to create a record in response to a request.

(2)(B) Upon request, the judicial branch shall provide a record in a particular format if:

(2)(B)(i) it is able to do so without unreasonably interfering with its duties and responsibilities; and

(2)(B)(ii) the requester agrees to pay the additional costs, if any, actually incurred in providing the record in the requested format.

(2)(C) The judicial branch need not fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.

(3) If a person requests copies of more than 50 pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the judicial branch may provide the requester with the facilities for copying the requested records and require that the requester make the copies, or allow the requester to provide his own copying facilities and personnel to make the copies at the judicial branch's offices and waive the fees for copying the records.

(4) The judicial branch may not use the form in which a record is stored to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record.

(5) Subject to the Government Records Access Management Act (GRAMA) and Chapter 4, Article 2 of the Code of Judicial Administration, a request for email correspondence shall be sufficiently detailed to identify the email(s) sought with reasonable specificity. The request shall be narrowly tailored to yield a search that is not unduly burdensome. Requests shall include the subject matter of the email(s), the identity of individuals to whom the email(s) were sent or received, if known, and the date, or approximate date(s) of email(s). Upon receipt of a request, the person handling the request will forward it to the Court Information Technology Department, a representative of which will develop the parameters of the search.

(6) Subpoenas and other methods of discovery under state or federal statutes or rules of procedure are not records requests under these rules. Compliance with discovery shall be governed by the applicable statutes and rules of procedure.

(7) If the judicial branch receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect, it shall allow access to the information in the record that the requester is entitled to inspect, and shall deny access to the information in the record the requester is not entitled to inspect.

(87) The Administrative Office shall create and adopt a schedule governing the retention and destruction of all court records.

(98) The courts will use their best efforts to ensure that access to court records is properly regulated, but assume no responsibility for accuracy or completeness or for use outside the court.

(109)(A) Non-public information in a public record. The person filing a public record shall omit or redact non-public information. The person filing the record shall certify that, upon information and belief, all non-public information has been omitted or redacted from the public record. The person filing a private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social record shall identify the classification of the record at the top of the first page of a classified document or in a statement accompanying the record.

(109)(B) A party may move or a non-party interested in a record may petition to classify a record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social or to redact non-public information from a public record.

(109)(C) If the following non-public information is required in a public record, only the designated information shall be included:

(109)(C)(i) social security number: last four digits;

(109)(C)(ii) financial or other account number: last four digits;

(109)(C)(iii) driver's license number: state of issuance and last four digits;

(109)(C)(iv) address of a non-party: city, state and zip code;

(109)(C)(v) email address or phone number of a non-party: omit; and

(109)(C)(vi) minor's name: initials.

(109)(D) If it is necessary to provide the court with private personal identifying information, it must be provided on a cover sheet or other severable document, which is classified as private.

(110)(A) Notwithstanding Rule 4-202.02, except as otherwise ordered by the court and except as provided in subsections (B) and (C), if a case involves a tax on property or its use under Title 59, Chapter 2, Property Tax Act, Chapter 3, Tax Equivalent Property Act, or Chapter 4, Privilege Tax, all records shall be classified as public records under Rule 4-202.02.

(110)(B) Except as provided in subsection (C), all records in a case that involves a tax on property or its use under Title 59, Chapter 2, Property Tax Act, Chapter 3, Tax Equivalent Property Act, or Chapter 4, Privilege Tax, shall be protected if the case also involves commercial information as that term is defined by Utah Code § 59-1-404.

(110)(C) For a case described in subsection (B):

(110)(C)(i) if a request for a specific record, or access to all records in a case, is made to the court and notice is given to the taxpayer, such record or records shall be released within 14 days after notice is given to the taxpayer, except for specific records ordered by the court to be classified as sealed, private, protected, or safeguarded pursuant to a motion made under Rule 4-202.04(3);

74 (110)(C)(ii) thirty days after the issuance of a non-appealable final order by the court, all records shall be
75 public unless the court orders specific records to be classified as sealed, private, protected, or
76 safeguarded pursuant to a motion made under Rule 4-202.04(3).
77 (110)(C)(iii) The public shall have access to the case history, notwithstanding the limitations in this rule
78 applicable to the underlying records.

TAB 3

Rule 4-202.02 – Records Classification (juvenile abstract of judgment)

NOTES: According to Brent Johnson, this proposal comes from a problem in implementing recent legislation. That legislation changed the options available to a juvenile court as it pertained to collecting restitution. In the district and justice courts, when a court issues a restitution order, the court is to enter that amount as a civil judgment. Entering the amount as a civil judgment allows the victim to independently collect the amounts that are owed. Prior to this year, victims did not have the same opportunity in juvenile court. The new legislation states that the juvenile court is to enter restitution as a civil judgment, which would then allow the victim to collect the judgment. The problem that was not considered by the legislature is that the juvenile courts presently do not have the ability to create civil judgments and enter such judgments into a civil docket. Although all cases in the juvenile courts are considered civil, the juvenile courts do not have the ability to enter monetary civil judgments.

In order to resolve this problem, a process was developed by which the juvenile court would enter a civil judgment in the docket. The court would then create an abstract of the judgment which will be filed in district court, where the victim could then take advantage of the collection procedures available in the district courts. The legislation does not expressly provide for this process and the legislature may not have understood that civil judgments cannot be entered in juvenile court and they probably intended that such judgments would stay there. This means that the legislature would have expected these judgments to remain confidential, similar to other documents entered in the juvenile courts.

Therefore, the proposal is to have these juvenile court abstracts of judgment classified as “private” when they are filed in the district court. The designation will still allow the victim to take advantage of civil processes, but will keep the confidentiality that was perhaps intended.

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) **Presumption of Public Court Records.** Court records are public unless otherwise classified by this rule.

(2) **Public Court Records.** 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)(L)(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)(ix) 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 empaneled 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;

(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.

(3) Sealed Court Records. 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; -

(3)(A)(iii) Section 76-7-304.5, Consent required for abortions performed on minors; and

(3)(A)(iv) Section 78B-8-402, actions for disease testing;

(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) Private Court Records. 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) Section 76-10-532, Removal from the National Instant Check System database;

(4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed; and

(4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed;

and

(4)(A)(v) cases initiated in the district court by filing an abstract of a juvenile court restitution judgment.

(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, including qualified domestic relations orders, 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) affidavit of indigency;

(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) jail booking sheets;

(4)(H) citation, but an abstract of a citation that redacts all non-public information is public;

(4)(I) judgment information statement;

(4)(J) judicial review of final agency action under Utah Code Section 62A-4a-1009;

(4)(K) the following personal identifying information about a party: driver's license number, social security number, account description and number, password, identification number, maiden name and mother's maiden name, and similar personal identifying information;

(4)(L) 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, maiden name, mother's maiden name, and similar personal identifying information;

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

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

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

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

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

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

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

(4)(O) nonresident violator notice of noncompliance;

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

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

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

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

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

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

(4)(V) victim impact statements;

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

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

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

(5) Protected Court Records. 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) **Juvenile Court Social Records.** 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) medical, psychological, psychiatric evaluations;

(6)(D) pre-disposition and social summary reports;

(6)(E) probation agency and institutional reports or evaluations;

(6)(F) referral reports;

(6)(G) report of preliminary inquiries; and

(6)(H) treatment or service plans.

(7) **Juvenile Court Legal Records.** 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) **Safeguarded Court Records.** The following court records are safeguarded:

(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) 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, maiden name, mother's maiden name, and similar personal identifying information.

TAB 4

Human Resources: Professional Appearance Policy

NOTES: The committee last addressed this item at the August 3, 2018 meeting. At that time, the committee requested that Human Resources make a few changes to the draft of the policy, including a simplified, single policy to address the standard professional attire guidelines. Those changes have been incorporated into the following draft of the professional appearance policy.

Utah State Courts

Professional Appearance Policy

A diverse group of approximately 15 court employees of various ages and ethnicities are smiling and standing together in a group photo. They are dressed in professional attire. The background is a bright, modern office or courthouse interior with large windows.

Purpose

The purpose of this policy is to establish consistent statewide guidelines for a court employee's appearance. As a court employee you are interacting with the public, stakeholders, and coworkers in a variety of settings from the front counter to the courtroom, to the community, and offices in courthouses throughout the state. Your responsibility is to present a clean, neat, and professional appearance ensuring that it is within the professional guidelines and responsibilities of your position. This policy is designed to present the guidelines so that each employee can make an informed decision which conforms with both the policy and the employee's individual style.

The following guidelines apply to all court employees. Exceptions to this policy may be made where required by law to accommodate religious beliefs, a medical condition, or disability. The images presented throughout the policy are to provide examples of appearance that do or do not comply with the guidelines of the policy and should not be considered an inclusive list.

Essential Guidelines

Personal Grooming

As a court professional please follow all reasonable personal grooming guidelines, including regular bathing and use of deodorant. Also, please be considerate of others and avoid highly fragrant perfume/cologne/essential oils or grooming products as they may affect others in the work environment.

Tattoos and Piercings

Visible tattoos on the face are not allowed. Other visible tattoos are permitted so long as they are not obscene, violent, profane, racist, sexual, or gang related. Accordingly, any prohibited tattoo(s) should be covered with clothing compliant with this policy or by the use of concealing makeup.

Ear piercings, ear gauges, eyebrow, and nose piercings should be of professional appearance and consistent with your job responsibilities. Septum, lip, and tongue rings or studs are not professionally appropriate and are not to be worn on duty. Body piercings with jewelry that can be seen through or under clothing are not to be worn during work hours.

Essential Guidelines

Style is a personal preference but should remain within guidelines



Acceptable



Not Acceptable



Acceptable



Acceptable



Acceptable

Visible tattoos on face
are prohibited

Standard Professional Attire Guideline

Court employees have various roles throughout the judiciary which may have guidelines unique to the role. The following guidelines should be adhered to when appropriate given your role.

Standard Professional Attire Guideline

The standard professional attire guideline applies Monday through Friday unless one of the other guidelines detailed elsewhere in this policy is applicable. The standard professional attire guideline includes the following:

- Blouses or collared button down dress shirts
- Sweaters, cardigans, and vests
- Dress pants, trousers, or slacks
- Skirts or dresses
- Professionally appropriate leggings or tights may be worn under skirts or dresses or with a long tunic but not as pants.
- Dress shoes or dress boots
- Blazers, suits, ties are optional but preferred when working in court

Standard Professional Attire Guideline



Acceptable



Not Acceptable

Leggings are worn as pants and not beneath a skirt, dress, or long tunic are prohibited.



Acceptable



Acceptable



Acceptable

Standard Professional Attire Guideline



Acceptable



Acceptable



Acceptable



Acceptable

Standard Professional Attire Guideline



Acceptable



Not Acceptable

Guidelines require that leggings should only be worn beneath a skirt, dress, or long tunic.



Acceptable

Blazers, suits, ties are optional when appearing in court.



Acceptable

Casual Day Guideline

Juvenile Court probation work crew staff and probation officers on a tracking assignment may dress to the guideline as detailed below .

Casual Day Guideline

The casual day guideline is applicable on Friday, for full day trainings, or on a day designated by district or administrative management. Employees working and/or appearing in court on a casual day must comply with the standard professional attire guideline. Casual day guideline clothing includes the following:

- Jeans without holes or excessive fading patterns
- Cargo pants
- Casual shoes, boots, or athletic shoes
- Collared polo shirt — court logo or other small brand logo is acceptable
- Graphics or logos are not permitted on attire other than a court logo or small brand logo

Additional casual guidelines may be applied by management on a limited basis for district/office approved off-site activities.

Casual Day Guidelines



Not Acceptable

Jeans are torn.



Acceptable



Not Acceptable

Sweatshirts are prohibited.



Not Acceptable

T-shirts alone are prohibited.



Acceptable

Casual Day Guideline



Not Acceptable

Tank tops are prohibited.



Not Acceptable

Athletic wear is prohibited.



Not Acceptable

Jeans are torn and unbuttoned shirt with t-shirt does not meet guidelines.



Acceptable

Position Based Exceptions

Juvenile Court probation work crew staff, probation officers on a tracking assignment, and designated information technology staff may dress to the guidelines detailed below .

Juvenile Court Probation Work Crew Staff

The base guideline of appearance for staff on a work crew assignment is the casual day guideline. Additional attire considered appropriate includes:

- T-shirts without graphics (small brand logo acceptable)
- Sweatshirt or hoodie without graphics (small brand logo acceptable)
- Shorts that fall within 3 inches of the knee (no cut-offs, athletic shorts, board shorts)
- Overalls
- Hats without logo or graphics (small brand logo acceptable)
- For safety reasons open toe shoes or sandals are not allowed

Probation Officers on a Tracking Assignment

Probation officers on a tracking assignment have the option to change from the business casual and/or courtroom guidelines to the casual day guideline prior to leaving on a tracking assignment. Additional attire considered appropriate on a tracking assignment include a sweatshirt or hoodie without graphics (small brand logo acceptable) and, in cold weather, appropriate winter hats may be worn (small brand logo acceptable). For safety reasons open toe shoes or sandals are not allowed.

Information Technology Staff

Information Technology staff, as designated by the IT Director, who do not have regular interaction with the public and/or whose job duties regularly include the installation and maintenance of computer hardware have the option of conforming with the casual day dress guidelines Monday through Friday.

Work Crew Guidelines



Not Acceptable

T-shirts with large logos
are not permitted



Acceptable



Acceptable

Shorts are not cut offs and
fall within 3" of knee



Not Acceptable

Athletic or board shorts are
not permitted

Work Crew Guidelines



Not Acceptable



Acceptable



Acceptable



Acceptable

Sweatshirts or hoodies
with large logos are not
permitted

Prohibited Attire and Enforcement

Prohibited Attire

The following is a list of prohibited attire, not to be considered inclusive, is subject to modification by management and may be subject to the Position Based Exceptions detailed elsewhere in this policy.

- Flip flops (other thong style sandals must include a heel strap), athletic sandals, slippers
- T-shirts (with or without logo)
- Hats, beanies
- Tank tops, tank top dresses, tube tops, crop tops, halter tops, off the shoulder tops, and spaghetti straps
- Athletic wear
- Overalls
- Rompers
- Leggings or tights worn without skirt, dress or long tunic
- Sweatshirts/hoodies
- Inordinately revealing or tight clothing
- Skirts or dresses more than 3 inches above the knee (worn without tights or leggings)

Enforcement

Management shall enforce the policy and employees determined to be inappropriately attired may be sent home, on their own time, to change into appropriate attire. Employees with ongoing violations of the professional appearance policy will be subject to discipline in accordance with personnel policies and procedures.

Examples of Prohibited Attire



TAB 5

Rules 4-401 (NEW) and 4-401.02 (AMEND): Recording and photography in courthouses

NOTES: This agenda item incorporates a few different, but related, items. First, a new rule (4-401 – “Media in Courthouses”) would address a statewide policy regarding filming in courthouses. This should not be confused with Rule 4-401.01 “Electronic media coverage of court proceedings,” which is a separate rule that addresses news reported coverage of court proceedings and is not presently the subject of any proposed amendment. The filming addressed by 4-401 may include commercial and non-commercial endeavors and may seek to utilize court property as part of the set for the production. The attached proposed rule is a starting point for discussions regarding this issue.

Second, the proposed amendment to Rule 4-401.02 clarifies that the scope of that rule is for “personal” possession and use of portable electronic devices in the courthouse and courtroom.

Finally, the courts are beginning to discuss the advisability of identifying particular locations in each court facility where recording (for any purpose other than what is covered by Rule 4-401.01) is permitted. Because each court facility is unique, the current proposal is that such locations should be specified in local general orders issued by presiding judges for each district. The committee will be updated on this matter and engage in some discussion of the issue.

1 Rule 4-401. Media in courthouses.

2 Intent:

3 To restrict still photography, filming, and audio and video recording in courthouses except as
4 permitted under rule 4-401.01 and 4-401.02.

5 Applicability:

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

7 Statement of the Rule:

8 (1) Except as permitted under this rule and rules 4-401.01 and 4-401.02 still photography,
9 filming, and audio and video recording in courthouses is prohibited.

10 (2) Still photography, filming, and audio and video recording for ceremonial or court-approved
11 public information programs are permitted when arranged through the presiding judge of the
12 court.

13 (3) Anyone violating this rule may be removed from the courthouse.

Rule 4-401.02. Possession and use of portable electronic devices.

Intent:

To permit ~~the~~ personal use of portable electronic devices in courthouses and courtrooms, subject to local restrictions.

Applicability:

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

Statement of the Rule:

(1) Definitions.

(1)(A) “Judge” as used in this rule means the judge, justice, or court commissioner who is presiding over the proceeding.

(1)(B) “Portable electronic device” as used in this rule means any device that can record or transmit data, images or sounds, or access the internet, including a pager, laptop/notebook/personal computer, handheld PC, PDA, audio or video recorder, wireless device, cellular telephone, or electronic calendar.

(2) Personal possession and use of portable electronic devices in a courthouse.

(2)(A) A person may possess and use a portable electronic device anywhere in a courthouse, except as limited by this rule or directive of the judge.

21 (2)(B) All portable electronic devices are subject to screening or inspection
22 at the time of entry to the courthouse and at any time within the courthouse in
23 accordance with Rule 3-414.

24 (2)(C) All portable electronic devices are subject to confiscation if there is
25 reason to believe that a device is or will be used in violation of this rule.
26 Violation of this rule or directive of the judge may be treated as contempt of
27 court.

28 (3) Restrictions.

29 (3)(A) Personal Use- use of portable electronic devices in common areas.
30 The presiding judges may restrict the time, place, and manner of using a
31 portable electronic device to maintain safety, decorum, and order of common
32 areas of the courthouse, such as lobbies and corridors.

33 (3)(B) Personal Use- use of portable electronic devices in courtrooms.

34 (3)(B)(i) A person may silently use a portable electronic device inside a
35 courtroom.

36 (3)(B)(ii) A person may not use a portable electronic device to record or
37 transmit images or sound of court proceedings except in accordance with
38 Rule 4-401.01.

39 (3)(B)(iii) A judge may further restrict personal use of portable electronic
40 devices in his or her courtroom. Judges are encouraged not to impose further
41 restrictions unless personal use of a portable electronic device might interfere

with the administration of justice, disrupt the proceedings, pose any threat to safety or security, compromise the integrity of the proceedings, or threaten the interests of a minor.

(3)(B)(iv) During trial and juror selection, prospective, seated, and alternate jurors are prohibited from researching and discussing the case they are or will be trying. Once selected, jurors shall not use a portable electronic device while in the courtroom and shall not possess an electronic device while deliberating.

(4) ~~Personal Use~~ use of portable electronic devices in court chambers. A person may not use a portable electronic device in chambers without prior approval from the judge.

(5) Instruction to witnesses. It should be anticipated that observers in the courtroom will use portable electronic devices to transmit news accounts and commentary during the proceedings. Judges should instruct counsel to instruct witnesses who have been excluded from the courtroom not to view accounts of other witnesses' testimony before giving their own testimony.

TAB 6

Proposed New Rule: Consolidation of Probation

NOTES: This rule has been presented to the committee on a number of occasions, most recently on August 3, 2018. Since that time, the Board of District Court Judges considered the existing draft of the rule and provided some feedback for the committee's consideration. The attached draft makes some revisions based on the committee's August 3, 2018 discussion, as well as incorporating some of the feedback from the Board of District Court Judges.

CJA Rule _____ . Consolidation of Probation**Intent**

To allow management by a single district court judge of multiple supervised probation cases involving a single defendant which were originally adjudicated in separate courts or districts. The purpose is to improve the effectiveness of supervised probation by consolidating probation supervision to the discretion of a single judge. Consolidation will result in greater clarity for probation orders to the defendant. It is also expected that significant administrative confusion will be eliminated for courts, prosecutors, and defense counsel, as probation actions will not be alleged and considered in more than one forum.

Applicability

This rule applies only when all of the following conditions have been met (see “Definitions” below):

- (1) The defendant is presently subject to an initial order of any supervising judge for probation, supervised by AP&P, for any non-petty offense; and
- (2) The defendant is thereafter subject to a subsequent order of any sending judge for probation, also supervised by AP&P, for any non-petty offense (without regard to the date(s) of offense underlying the subsequent order); and
- (3) The following individuals agree to the consolidation:
 - The defendant;
 - The defense attorney involved in the case underlying both the initial order and the relevant subsequent order(s);
 - The prosecutor involved in the case underlying both the initial order and the relevant subsequent order(s); and
 - The relevant sending judge.

Statement of the Rule:

- (1) **Definitions.** For the purpose of this rule, the following definitions apply:
 - (1)(A) “Initial order” means the first-in-time order authorizing probation, supervised by AP&P, for a non-petty offense, issued by a district court judge for the State of Utah, unless a later order is designated as the “initial order” under subsection (10).
 - (1)(B) “Subsequent order” means any order for probation, supervised by AP&P, for a non-petty offense, issued after the date of the initial order, by a district court judge other than the judge that issued the initial order.
 - (1)(C) “Consolidated order” means any subsequent order that is consolidated with the initial order, pursuant to this rule.
 - (1)(D) “Supervising judge” means the district court judge assigned to preside over the case underlying the initial order and any consolidated order.
 - (1)(E) “Sending judge” means a district court judge assigned to preside over a case underlying a subsequent order.
 - (1)(F) “Receiving judge” means a district court judge assigned to preside over a case underlying a subsequent order and, as a result, would not typically be considered

Commented [MCD1]: Utah Code Ann. § 77-18-1(12)(b)(i) – “Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court that authorized probation shall determine if the affidavit establishes probable cause to believe that revocation, modification, or extension of probation is justified.”

Commented [MCD2]: This language doesn’t seem necessary in light of the “first-in-time” language found in the definition of “initial order” and the “issued after the date of the initial order” language found in the definition of “subsequent order.”

Commented [MCD3]: If the defendant consents, does it matter whether the defense attorney opposes consolidation? Doesn’t the defense attorney have to defer to the client’s wishes on this? If the defendant agreed to consolidation, but the defense attorney didn’t, would the court want to be prohibited from moving forward with consolidation?

Reasons to require defense attorney consent:
 - be treated uniformly with prosecutors
 - respect that this may create additional work for a defense attorney

the supervising judge, but, through agreement of all affected parties, becomes the supervising judge under subsection (10).

(1)(G) “Non-petty offense” means any class A misdemeanor or felony.

(1)(H) “AP&P” means the Adult Probation and Parole division of the Utah Department of Corrections.

(2) **Probation Consolidation. Agreement Required. Objection Process.** When the conditions outlined in the Applicability section (see above) have been met, a subsequent order may be consolidated with the initial order for supervision and enforcement of probation by the supervising judge. Such consolidation encompasses the authority for supervision and enforcement as outlined in subsection (5) below. In order to consolidate a subsequent order pursuant to this rule, the following process shall be observed:

(2)(A) the sending judge shall inquire of the parties to the case underlying the subsequent order whether there is any objection to consolidation. Any party to the case underlying the subsequent order can object either: (i) on the record, if the inquiry is raised during a hearing with all parties present; or (ii) by filing a written objection with the sending judge within seven days (computed pursuant to Rule 2 of the Utah Rules of Criminal Procedure) of the sending judge’s inquiry, if the inquiry is made under any other circumstances. If any party to the case underlying the subsequent order objects, the subsequent order shall not be consolidated. In the event that the parties to the case underlying the subsequent order do not object as outlined above, the sending judge shall enter a probation consolidation agreement into the record of the sending judge’s case. A copy of that probation consolidation agreement shall be delivered to:

(i) the supervising judge;

(ii) the AP&P region office responsible for probation supervision on the initial order;

(iii) the defendant, or if represented by counsel, the defendant’s attorneys in the cases underlying both the initial order and the relevant subsequent order;

(iv) the prosecutor for the case underlying the initial order; and

(v) the prosecutor for the case underlying the relevant subsequent order.

(2)(B) Upon receipt of the probation consolidation agreement, the prosecutor or defense attorney in the case underlying the initial order shall have seven days (computed pursuant to Rule 2 of the Utah Rules of Criminal Procedure) to file a written objection to the consolidation. Such objection shall be delivered to both the supervising judge and to the relevant sending judge. In the event that such an objection is filed, the subsequent order shall not be consolidated.

(2)(C) If no objection is filed within the allotted time, the supervising judge shall issue a probation consolidation order, which shall include specific language authorizing probation consistent with this rule and Utah Code section 77-18-1. A copy of that probation consolidation order shall be delivered to:

(i) the sending judge;

(ii) AP&P;

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- 89 (iii) the defendant, or if represented by counsel, the defendant's attorneys in
90 the cases underlying both the initial order and the subsequent order; and
91 (iv) the prosecutors involved in the cases underlying both the initial order and
92 the subsequent order.
- 93 (2)(D) Once issued by the supervising judge, the probation consolidation order shall
94 continue in effect until such time as: (i) probation on any consolidated order is
95 terminated or revoked; or (ii) the probation consolidation order is rescinded as
96 outlined in subsection (9) below.
- 97 (3) **Numbering and Venue.** Consolidation of a subsequent order with the initial order under
98 subsection (2) shall not result in any renumbering of any case.
- 99 (4) **Recordkeeping.** The following recordkeeping provisions apply to any case where a
100 probation consolidation order has been entered:
- 101 (4)(A) Any probation-related communication from AP&P, the prosecutor, or any defense
102 attorney regarding the initial order or any consolidated order shall be directed only
103 to the supervising judge.
- 104 (4)(B) Until such time as the supervising judge can directly enter data into the records of
105 the sending judge, the supervising judge shall not be required to send any
106 probation-related court records to any sending judge while the probation
107 consolidation order remains in effect. When and where direct entry of data is
108 possible, the supervising judge may enter probation-related court records into the
109 sending judge's records.
- 110 (4)(c) Upon termination or revocation of AP&P probation for any reason that would
111 result in the defendant continuing on any type of probation with the sending court,
112 the supervising judge shall deliver to the sending judge a copy of any probation-
113 related court records that were received or generated by the supervising judge
114 while the probation consolidation order was in effect. In the event that the
115 termination of probation results in the original sentence being imposed, the
116 supervising judge shall send a copy of the final order to the sending judge.
- 117 (5) **Authority to Supervise and Enforce Subsequent Orders.** Following the issuance of a
118 probation consolidation order:
- 119 (5)(A) The supervising judge shall be authorized to take any action outlined in Utah
120 Code sections 77-18-1(8)-(16) relating to the initial order and any consolidated
121 order.
- 122 (5)(B) All other case authority for any purpose other than as stated in subsection (5)(A)
123 remains with the sending judge, as outlined in subsection (7) below.
- 124 (6) **Representation by Counsel.** Regardless of how many consolidated orders are
125 consolidated with the initial order, counsel for the State and the defendant will be
126 expected to appear in all proceedings before the supervising judge regarding both the
127 initial order and any consolidated order, as follows:
- 128 (6)(A) the State will be represented by whatever prosecution office represented the State
129 in the case underlying the initial order;
- 130 (6)(B) the defendant will be represented by either: (i) counsel of the defendant's
131 choosing (if such counsel is privately retained); (ii) the same counsel / defense
132 service provider who represented the defendant in the case underlying the initial

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order, if the defendant qualifies for court-appointed counsel; or (iii) if the defense attorney under (ii) is unavailable, any other defense attorney appointed by the supervising court, if the defendant qualifies for court-appointed counsel; and (6)(C) any prosecutor / prosecutor office and defense attorney / defense service provider involved in any case underlying a consolidated order will not make further appearances in probation-related matters, although they will continue to participate in matters before the sending judge for any litigation not affected by the consolidation, as described in subsection (7).

(7) **Litigation not Affected by Consolidation.** In cases where probation-related consolidation occurs, the following litigation will continue to be addressed by the sending judge in the court where the charges were initially resolved prior to consolidation of probation-related matters:

(7)(A) any petition for post-conviction relief under the Post-Conviction Remedies Act, 78B-9-101 et seq.;

(7)(B) any proceeding initiated by remand from an appellate court for any purpose other than continued or modified probation;

(7)(C) any action to determine or correct an illegal sentence;

(7)(D) any motion to withdraw a guilty plea, re-sentence, or otherwise modify or challenge the conviction;

(7)(E) any motion or proceeding to determine restitution under the Crime Victim Restitutions Act, 77-38a-101 et seq.; and

~~(7)(F) any other matter not specifically related to the supervision or enforcement of probation as outlined in subsection (5) above.~~

(8) **Notice of Renewed Litigation and Status of Continuing Probation.** When a sending judge exercises jurisdiction for any of the purposes described in subsection (7), the sending judge will notify the supervising judge by minute entry delivered to the supervising judge. Notice of such action does not terminate probation or affect consolidation under this rule, unless and until the probation consolidated order is modified as a result of litigation outlined in subsection (7).

(9) **Rescinding a Probation Consolidation Order.** Any party in the case underlying either the initial order or a subsequent order may request, by written motion, that the supervising judge review the matter to determine if the interests of justice and the purposes of this rule are being served by continued consolidation. In the event that the supervising judge determines that there is good cause to rescind the probation consolidation order, the supervising judge may, after conferring with any affected sending judge, grant the motion. If the motion is granted, the authority to supervise and manage probation shall return to the relevant sending judge.

(10) **Subsequent Order Designated as Initial Order.** In the event that all parties agree that probation consolidation should occur, but also agree that probation should be supervised by a receiving judge, any party may file with the supervising judge a stipulated motion to designate a subsequent order as the initial order. That motion requires the written consent of all affected parties, including any affected prosecutor, any affected defense attorney, the defendant, and the receiving judge. Upon receiving such written agreement, the supervising judge shall consult with: i) the proposed receiving

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179 judge; and, if necessary to a determination of the issue, ii) any sending judge. If the
180 supervising judge finds that the interests of justice will be promoted by granting the
181 motion, the supervising judge shall issue a probation consolidation order directing that
182 the initial order and any consolidated orders be supervised and enforced by the
183 receiving judge. The supervising judge shall deliver a copy of the probation
184 consolidation order to all signatories of the stipulated motion and any sending judge.
185 Upon issuing the probation consolidation order under this subsection, that supervising
186 judge will be designated as a sending judge, and the receiving judge will then be
187 designated as the supervising judge.

TAB 7

Update from Problem-Solving Courts Working Group

NOTES: On May 4, 2018, the Problem-Solving Courts Working Group was established by the committee to address the following:

The Working Group shall:

- a. Identify national evidence-based practices for problem-solving courts, including the review of recent research
- b. Limit the number of criteria which are Required for certification
 - i. The Judicial Council has concerns that criteria in the Certification Checklists have been labeled as requirements but have not resulted in decertification
 - ii. Required criteria are those, without which, actual harm will occur and/or participants would be better served by disbanding the court altogether
- c. Simplify the Certification Checklists for all problem-solving courts
- d. Consider proposed amendments to CJA Rule 4-409(5)
- e. Consider whether the Judicial Council should allocate more resources to the certification process
- f. Complete its work no later than December 31, 2018

The Working Group reports that it has completed the assigned work and will present their efforts. The attached materials outline the work completed by the Working Group since the May 4 meeting.

REVISED

Court:

Judge:

Date:

Utah Adult Drug Court Certification Checklist 2018

*Standards followed by an **R** are required features of a drug court, and adherence to these standards is required for certification. Standards followed by a **P** indicate a standard where there is a presumption that it must be met, but if the program can show sufficient compensating measures or a structural inability to meet the standard, it may be waived. Standards followed by a **B** are best practice standards that represent practices that research has shown to produce better outcomes, but failure to meet these standards will not result in decertification.*

Many of these standards are direct restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, National Association of Drug Court Professionals. Those are indicated by a BPS following the standard, and the citation to the section of the document in which the standard is found. An asterisk indicates a modification of the NADCP standard.

YES NO

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | 1. Eligibility and exclusion criteria are defined and applied objectively. R
BPS I A |
| <input type="checkbox"/> | <input type="checkbox"/> | 2. Eligibility and exclusion criteria are specified in writing. R BPS I A |
| <input type="checkbox"/> | <input type="checkbox"/> | 3. Eligibility and exclusion criteria are communicated to potential referral sources.
P BPS I A |
| <input type="checkbox"/> | <input type="checkbox"/> | 4. The Drug Court team does not apply subjective criteria or personal impressions to determine participants' suitability for the program. R BPS I A |

YES NO

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | 5. The program admits only participants who are high risk high need as measured by the RANT or some other approved and validated assessment tool. R BPS* I B |
| <input type="checkbox"/> | <input type="checkbox"/> | 6. Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population. R BPS I C |
| <input type="checkbox"/> | <input type="checkbox"/> | 7. Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction. R BPS I C |
| <input type="checkbox"/> | <input type="checkbox"/> | 8. Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. R BPS I C |
| <input type="checkbox"/> | <input type="checkbox"/> | 9. Current or prior offenses may not disqualify candidates from participation in the Drug Court if unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court. R BPS I D |
| <input type="checkbox"/> | <input type="checkbox"/> | 10. Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court. R BPS I D |
| <input type="checkbox"/> | <input type="checkbox"/> | 11. If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication. R BPS I D |
| <input type="checkbox"/> | <input type="checkbox"/> | 12. The program has a written policy addressing medically assisted treatment. R |
| <input type="checkbox"/> | <input type="checkbox"/> | 13. The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants. R P BPS II B, BPS X E |
| <input type="checkbox"/> | <input type="checkbox"/> | 14. The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. R P BPS II D |
| <input type="checkbox"/> | <input type="checkbox"/> | 15. Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. P BPS II F |

YES NO

- ☐ ☐ 16. The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **P BPS III A**
- ☐ ☐ 17. The judge presides over the Drug Court for no less than two consecutive years. **P BPS III B**
- ☐ ☐ 18. Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court. **R BPS III C**
- ☐ ☐ 19. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team. **R BPS III D**
- ☐ ☐ 20. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☐ ☐ 21. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS* III E**
- ☐ ☐ 22. The Judge spends an average of at least three minutes with each participant. **~~R~~ P BPS* III F**
- ☐ ☐ 23. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☐ ☐ 24. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**
- ☐ ☐ 25. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R BPS III H, BPS VIII D**
- ☐ ☐ 26. The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative. **R BPS III H, BPS VIII D**
- ☐ ☐ 27. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R BPS III H**

YES NO

- ☐ ☐ 28. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members. **R BPS IV A**
- ☐ ☐ 29. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R BPS IV A**
- ☐ ☐ 30. The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R BPS IV A**
- ☐ ☐ 31. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R BPS IV A**
- ☐ ☐ 32. Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including **but not limited to** alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance. **R BPS IV F**
- ☐ ☐ 33. The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. **P BPS IV F**
- ☐ ☐ 34. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. **P BPS IV I**
- ☐ ☐ 35. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. **P BPS IV I**
- ☐ ☐ 36. Drug testing is performed at least twice per week. **R BPS VII A***
- ☐ ☐ 37. Drug testing is random, and is available on weekends and holidays. **R BPS VII B***
- ☐ ☐ 38. Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. **P BPS VII B**

YES NO

- ☐ ☐ 39. Drug test results are available within 48 hours. **P** BPS VII H
- ☐ ☐ 40. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. **R P** BPS VII B
- ☐ ☐ 41. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population. **P** BPS VII D*
- ☐ ☐ 42. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. **R** BPS VII E*, F*
- ☐ ☐ 43. ~~The Drug Court~~ Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. **R** BPS VII G
- ☐ ☐ 44. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P** BPS VII G
- ☐ ☐ 45. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R** BPS VII G*
- ☐ ☐ 46. Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R** BPS VII I
- ☐ ☐ 47. The program requires at least 90 days clean to graduate. **R**
- ☐ ☐ 48. The minimum length of the program is twelve months. **R**
- ☐ ☐ 49. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R** BPS IV J
- ☐ ☐ 50. Jail sanctions are definite in duration and typically last no more than three to five days. **R** BPS IV J
- ☐ ☐ 51. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R** BPS IV J

YES NO

- ☐ ☐ 52. Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. **R BPS IV K**
- ☐ ☐ 53. If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program. **R BPS IV K**
- ☐ ☐ 54. The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services. **B BPS V A**
- ☐ ☐ 55. Standardized patient placement criteria govern the level of care that is provided. **P BPS V A**
- ☐ ☐ 56. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure. **P BPS V A**
- ☐ ☐ 57. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters. **R BPS V B**
- ☐ ☐ 58. Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction. **P BPS V D**
- ☐ ☐ 59. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. **P BPS V E**
- ☐ ☐ 60. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms. **P BPS V E**
- ☐ ☐ 61. Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators. **B BPS V E**
- ☐ ☐ 62. Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system. **P BPS V F, BPS VI G**

YES NO

- ☐ ☐ 63. Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.
P BPS V F
- ☐ ☐ 64. Treatment providers are licensed or certified to deliver substance abuse treatment.
R BPS V H
- ☐ ☐ 65. Treatment providers have substantial experience working with criminal justice populations. **B BPS V H**
- ☐ ☐ 66. Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices. **P BPS V H**
- ☐ ☐ 67. Participants regularly attend self-help or peer support groups in addition to professional counseling. **R BPS V I**
- ☐ ☐ 68. The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models. **R BPS V I**
- ☐ ☐ 69. There is a secular alternative to 12-step peer support groups. **R**
- ☐ ☐ 70. Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.
P BPS V I
- ☐ ☐ 71. Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care. **R BPS V J**
- ☐ ☐ 72. Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court. **P BPS V J**
- ☐ ☐ 73. For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☐ ☐ 74. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program. **P BPS VI D**
- ☐ ☐

75. Participants are not excluded from participation in Drug Court because they lack a stable place of residence. **R** BPS VI D

YES NO

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | 76. Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders. B BPS VI E |
| <input type="checkbox"/> | <input type="checkbox"/> | 77. Participants suffering from diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program. R BPS VI E |
| <input type="checkbox"/> | <input type="checkbox"/> | 78. Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). P BPS VI F |
| <input type="checkbox"/> | <input type="checkbox"/> | 79. Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety. B BPS VI F |
| <input type="checkbox"/> | <input type="checkbox"/> | 80. Female participants receive trauma-related services in gender-specific groups. B BPS VI F |
| <input type="checkbox"/> | <input type="checkbox"/> | 81. All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. P BPS VI F |
| <input type="checkbox"/> | <input type="checkbox"/> | 82. Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court. R BPS VI I* |
| <input type="checkbox"/> | <input type="checkbox"/> | 83. Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court. P BPS VI I |
| <input type="checkbox"/> | <input type="checkbox"/> | 84. Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court. B BPS VI I |
| <input type="checkbox"/> | <input type="checkbox"/> | 85. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. B BPS VI J |
| <input type="checkbox"/> | <input type="checkbox"/> | 86. Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. P BPS VI L |

YES NO

- ☐ ☐ 87. Clients are placed in the program within 50 days of arrest. **R P**
- ☐ ☐ 88. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each staffing meeting. **R BPS VIII B***
- ☐ ☐ 89. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each Drug Court session. **R BPS VIII A***
- ☐ ☐ 90. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. **R BPS VIII B**
- ☐ ☐ 91. Team members are assigned to Drug Court for no less than two years. **P**
- ☐ ☐ 92. All team members use electronic communication to contemporaneously communicate about Drug Court issues. **P**
- ☐ ☐ 93. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. **R BPS VIII C**
- ☐ ☐ 94. Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program. **B BPS VIII F**
- ☐ ☐ 95. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts. **P BPS VIII F**
- ☐ ☐ 96. New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**
- ☐ ☐ 97. Court fees are reasonable and based on each participant's ability to pay. **R CJA 4-409(5)(G)**
- ☐ ☐ 98. Treatment fees are based on a sliding fee schedule. **R**
- ☐ ☐

99. The Drug Court has more than 15 but less than 125 active participants. **P** BPS IX A*

YES NO

- ☐ ☐ 100. Supervision caseloads do not exceed fifty active participants per supervision officer. **B** BPS IX B
- ☐ ☐ 101. Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services. **B** BPS IX C
- ☐ ☐ 102. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P** BPS X A
- ☐ ☐ 103. The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. **B** BPS X B*
- ☐ ☐ 104. New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court. **P** BPS X C
- ☐ ☐ 105. A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years. **R** **P** BPS X D
- ☐ ☐ 106. The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R** BPS X D
- ☐ ☐ 107. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes. **B** BPS X F
- ☐ ☐ 108. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P** BPS X G
- ☐ ☐ 109. Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. **B** BPS X H
- ☐ ☐

110. The program conducts an exit interview for self- improvement. **P**