

**UTAH JUDICIAL COUNCIL
POLICY AND PLANNING COMMITTEE
MEETING AGENDA**
January 8, 2021 – 12:00 p.m. to 2:00 p.m.
Webex

12:00	Welcome and Approval of Minutes	Action	Tab 1	Judge Pullan
12:05	<u>Rules back from Public Comment:</u> <ul style="list-style-type: none">• CJA 4-202.02. Records Classification• CJA 4-403. Electronic signature and signature stamp use	Action	Tab 2	Keisa Williams
12:15	CJA 3-303. Justice Court Clerks	Discussion	Tab 3	Jim Peters
12:25	HR Policies <ul style="list-style-type: none">• HR 1-5 – Judge Pullan• HR 6-7 – Judge Cannell / Judge Heward• HR 8-9 – Rob Rice• HR 10-14 – Judge Connors• HR 15-17 – Judge Chin	Action		Bart Olsen
2:00	Adjourn			

2021 Meetings:

February 5, 2021

March 5, 2021

April 2, 2021

May 7, 2021 (all day)

June 4, 2021

July 2, 2021 (reschedule)

August 6, 2021

September 3, 2021

October 1, 2021

November 5, 2021 (all day)

December 3, 2021

TAB 1

Minutes

December 4, 2020

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

Webex video conferencing
December 4, 2020: 12 pm -2 pm

DRAFT

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge Derek Pullan, <i>Chair</i>	•		Judge Mary Noonan
Judge Brian Cannell		•	Judge Ryan Harris
Judge Augustus Chin	•		Paul Barron
Judge David Connors	•		Brent Johnson
Judge Michelle Heward	•		James Peters
Mr. Rob Rice	•		Bart Olsen
			Jeremy Marsh
			STAFF:
			Keisa Williams
			Minhvan Brimhall

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Pullan welcomed the committee to the meeting. The committee considered the minutes from the November 6, 2020 meeting. With no changes, Rob Rice moved to approve the minutes as drafted. Judge Connors seconded the motion. The motion passed unanimously.

(2) Reschedule January 2021 meeting:

The committee moved the January 2021 meeting to January 8th.

(3) Rules back from public comment:

- 3-105. Administration of the Judiciary.
- 3-301.01. State Court Administrator – Complaints and performance review; complaints regarding judicial officers.
- 3-201. Court commissioners.

Ms. Williams: These rules are back from public comment. No comment was received on 3-201. We received one positive comment on rule 3-105, and two comments on 3-301.01. One comment was positive, and one was negative. The negative comment involved concerns addressed by Policy and Planning in previous meetings. No changes are recommended.

Judge Pullan: The section of Rule 3-301.01 related to judicial officers addresses the ability of employees to file complaints directly with the Council and comports with HR policies and procedures. It's important to create and encourage that environment.

Mr. Rice moved to approve all three rules as drafted and to send them to the Judicial Council with a recommendation that they be approved as final. Judge Chin seconded the motion and it passed unanimously.

(4) 3-201.02. Court commissioner conduct:

Ms. Williams: Rule 3-201.02 is back from public comment. No comments were received. However, after further consideration, Judge Harris recommends minor amendments to the rule.

Judge Harris: The proposed amendments are to paragraphs (3)(A) and (3)(B). In paragraph (2), the chair shall dismiss any frivolous complaints and complaints found to raise only issues of law or fact for which the remedy is review of the case by a trial court or on appeal. Complaints not dismissed by the chair must be referred to the full committee. In the draft that went out for comment, complaints referred to the full committee require a hearing, unless they qualify for a 12(b)(6) dismissal. The full committee recently reviewed a complaint and determined that a provision in the original version of the rule allowing the full committee to dismiss a complaint after a review or minimal examination, and on something other than (12)(b)(6) grounds, should be preserved. Not every complaint referred to the full committee warrants a hearing. The proposed amendments bring back the mechanism in paragraph (1)(H) of the rule in effect now.

Mr. Rice moved to approve rule 3-201.02, with the amendments proposed by Judge Harris, and to send it to the Judicial Council with a recommendation that it be approved as final. Judge Heward seconded the motion and it passed unanimously.

(5) 3-104. Presiding judges

3-108. Judicial assistance:

Mr. Johnson: In regard to the expungement issue, Policy and Planning determined that district court presiding judges should be the signing judge for all district courts within their district, and justice court presiding judges should be the signing judge for all justice courts within their district. After further research, I discovered statutory obstacles. Rule 3-108 applies only to the assignment of judges in courts of record. The rule is based in part on Utah Code § 78A-2-104(9)(a) which states that the Council “shall establish written procedures authorizing the presiding officer of the Council to appoint judges of courts of record by special general assignment to serve temporarily in another level of court in a specific court or generally within that level.” The statute does not expressly permit the Council to enact a rule allowing assignment of one justice court judge to serve in another justice court.

In addition, section 78A-2-225 permits a judge of a court of record to “serve temporarily as a judge in another geographic division or in another court of record, in accordance with the Utah Constitution and the rules of the Judicial Council.” This suggests that district court judges may serve only in other courts of record. Another problem with assigning presiding justice court judges to other justice courts is section 78A-7-208, which states, “when necessary, the governing body may appoint any senior justice court judge, or justice court judge currently holding office within the judicial district or within an adjacent county, to serve as a temporary justice court judge.” This suggests that local government governing bodies decide who will sign orders in their courts. All the Judicial Council can do at this point is appoint presiding district court judges to sign expungement orders in district court cases. In order for presiding justice court judges to sign for all justice courts in their district, a statutory amendment is necessary. The Council will need to decide if they want to pursue legislation. Internally, I will meet with Michael Drechsel and Paul Barron to determine whether it would work logistically. There may be resistance from cities and counties to a legislative change allowing judges to sign orders for other courts without approval by local governments. That should be part of the Council’s discussion.

Without a legislative change, the system will need to be programmed to affix each justice court judge’s signature to orders in their own cases. Tracking and updating the system when a justice court judge leaves the bench or retires will be critical. Orders with the signature of a judge no longer on the bench would be void.

The proposed amendment to rule 3-108(C) would read, “The presiding officer of the Council may appoint a district court presiding judge as the signing judge for automatic expungements in all district courts within the presiding judge’s district. The length of the assignment may coincide with the judge’s term as presiding judge.”

Mr. Rice moved to approve rule 3-108 as proposed by Mr. Johnson, and to send it to the Judicial Council with a recommendation that it be published for comment. The Council should also discuss whether it wants to pursue legislation. Judge Connors seconded the motion and it passed unanimously.

(6) Senior judge program update:

Judge Connors reviewed the memo from Cathy Dupont summarizing the senior judge working group's progress. At a previous meeting, Policy and Planning asked whether an analysis should be conducted to identify the number of senior court judges needed in each district, and limiting the number of appointments accordingly. The working group determined that limiting the number of senior judges isn't a good idea, at least not at this time. Needs fluctuate and the costs for senior judges in their first 7 years is de minimis. About 6 or 7 years ago, we were struggling for coverage because we had so few senior judges. The TCE's indicated that even with 25-30 senior judges, there are times when they aren't able to get coverage in a timely manner. The Supreme Court may limit the number of appointments either based on need or for some other reason, so the working group added a provision that service is subject to appointment. Senior judge status is not a matter of right.

The TCE's agreed to develop a better tracking method. A rule prescribes the prioritization of requests so we shouldn't require that every request go out to every senior judge, but at least over time, we should ensure all senior judges have an opportunity to participate and we should track their responses. If there are judges who routinely turn down assignments, we need to be aware of that.

Another policy question was whether there should be an age limit for senior judges. The working group determined that no age limit should be imposed. The more important question is competence. Performance isn't necessarily dictated by age. We should ensure TCE's and presiding judges understand their role in evaluating and soliciting feedback on performance. One issue is how to determine the best source of feedback. In addition, the working group will propose changes to ensure senior judges receive adequate training.

In regard to senior judges beyond the first 7 years, the cost of the incentive benefit ranges from \$1,900 to \$4,100. Currently, 10 of the 26 senior judges fall into that category. The working group recommends a rule amendment making it clear that an extended period of refusing assignments could lead to a denial of reappointment. Policy and Planning recommended that the Council appoint or reappoint all senior judges with pending applications, with the exception of the two judges who have not taken any assignments in the last 2-3 years, and recommended asking the Supreme Court to sit down with those two judges to conduct an evaluation of the reasons for the lack of work.

Mr. Rice: One way of addressing that concern is simply eliminating eligibility after seven years of service.

Judge Connors: In rule 3-501, the description for automatic benefits sounds like it guarantees benefits for five years, making the earned benefits only two years. What is the history behind that? I don't entirely understand it. If it isn't accurate then we ought to change it. Mr. Olsen agreed to look into it.

Judge Pullan: The rule says a senior judge can only be appointed with their consent. That seems to build in the ability not to work. What was the thinking behind that?

Judge Connors: The discussion centered around conflicts in senior judge's schedules because they don't always have a lot of notice and they may have other plans. It might be a good idea to explore the idea of having senior judges designate weeks they are available. That could be built into the tracking system.

Judge Pullan: Was there a discussion about the fiscal impact of doubling the amount for training, from \$50 to \$100 a day?

Judge Connors: The working group recommends increasing the amount from \$25 to \$50 for a half day training, and \$50 to \$100 for a full day. The costs would primarily be for one conference a year with 25 judges. The working group will present the full packet of recommendations to Policy and Planning and the Council in January.

(7) HR policies:

- HR 1-5 – Judge Pullan
- HR 6-7 – Judge Cannell/Judge Heward
- HR 8-9 – Rob Rice
- HR 10-14 – Judge Connors
- HR 15-17 – Judge Chin

Mr. Olsen recommended discussing policies flagged by members with questions and proposed edits. Below are summaries of the changes based on the committee's discussion. Mr. Olsen will preserve redlined and clean copies of the Google drive documents for future review.

Chapter 1:

01:

- "Incumbent" was changed to "employee."
- Misconduct can include a violation of HR policies, i.e. the harassment policy. Language was added to the end of paragraph (86), "...and/or a violation of current judicial branch policies."
- All references to "the Judiciary" were replaced with "judicial branch."
- Language was added to expand the use of telecommunicating, and to distinguish between telecommuting and routine telecommuting.
- Substantial evidence: The definition was borrowed from the Executive Branch. After discussion, the committee determined that the definition is sufficient as written. Caselaw will be referenced in a footnote.

02:

- Unlawful discrimination: a reference was added in (a), "...consistent with HR15-3..."
- The Committee discussed electronic personnel files maintained by the HR Department and hard copy files maintained in a local district or court location. The central electronic files maintained by HR are the official personnel files. Employees should not have more than one personnel file. Item (7) was removed.

The committee will continue its review of the remainder of the HR policies at the next meeting.

(10) ADJOURN:

With no further items for discussion, Judge Heward moved to adjourn the meeting. Judge Connors seconded the motion. With no opposition, the meeting adjourned at 2:03 pm. The next meeting will be on January 8, 2021 at noon via Webex video conferencing.

TAB 2

Rules back from Public Comment

- CJA 4-202.02. Records Classification
- CJA 4-403. Electronic signature and signature stamp use

Notes: The rules above are back from a 45-day comment period.

4-202.02 – One comment. Affidavits of indigency have always been private records. The proposed amendment (line 142) simply changes the terminology a bit to ensure both affidavits of indigency and the two data elements we now capture for purposes of conducting an ability-to-pay analysis are also private. I do not recommend any changes based on the comment.

4-403 - No comments

UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

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Comments cannot be acknowledged, but all will be considered. Comments are saved to a buffer for review before publication.

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Posted: October 26, 2020

Utah Courts

Code of Judicial Administration – Comment Period Closed December 10, 2020

CJA04-0202.02. Records Classification (AMEND). Clarifies that all records related to determinations of indigency are private records.

CJA04-0403. Electronic signature and signature stamp use (AMEND). Authorizes judges’ electronic signatures to be automatically affixed to automatic expungement orders.

This entry was posted in [CJA04-0202.02](#), [CJA04-0403](#).

« [Rules of Appellate Procedure – Comment Period Closes December 17, 2020](#)

[Code of Judicial Administration – Comment Period Closed November 21, 2020](#) »

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UTAH COURTS

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One thought on “Code of Judicial Administration – Comment Period Closed December 10, 2020”

Eric K. Johnson
October 27, 2020 at 6:42 am

I do not see any ostensible sound public policy basis behind wanting to deem more and more court records “private”.

The details of litigation in taxpayer-funded courts whose proceedings are public record and open to the public are, with rare exception, subject to public access and scrutiny to ensure that the courts operate in the clear light of day A) as a check on corruption of: the legal process, of judges and court personnel, of lawyers, and of litigants and B) to maintain a real and substantive connection between the public/taxpayer and the administration of justice in society. When any branch of government operates in secret (and/or seeks to operate in secret more) that does nothing to foster or sustain public confidence in it.

The information this rule amendment would make private does not strike me as information that has done significant, if any, harm or any noticeable harm as a result of being public to this point. This proposal appears to be a solution that is not only in search of a problem, but a poorly analyzed and conceived “solution” at that.

- -Rules of Appellate Procedure
- -Rules of Civil Procedure
- -Rules of Criminal Procedure
- -Rules of Evidence
- -Rules of Juvenile Procedure
- -Rules of Professional Conduct
- -Rules of Professional Practice
- -Rules of Small Claims Procedure
- ADR101
- ADR103
- Appendix B
- Appendix F
- CJA Appendix F
- CJA01-0201
- CJA01-0204
- CJA01-0205
- CJA01-0205
- CJA01-0303
- CJA01-0304
- CJA01-0305
- CJA010-01-0404
- CJA010-1-020
- CJA02-0103
- CJA02-0104
- CJA02-0106.01
- CJA02-0106.02
- CJA02-0106.03
- CJA02-0106.04
- CJA02-0106.05
- CJA02-0204
- CJA02-0206
- CJA02-0208
- CJA02-0208
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- CJA03-0111
- CJA03-0111.01
- CJA03-0111.02
- CJA03-0111.03
- CJA03-0111.04
- CJA03-0111.05
- CJA03-0111.06

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) licensed paralegal practitioner name;
 - (2)(L)(iv) case number;
 - (2)(L)(v) case status;
 - (2)(L)(vi) civil case type or criminal violation;
 - (2)(L)(vii) civil judgment or criminal disposition;

- 36 (2)(L)(viii) daily calendar;
- 37 (2)(L)(ix) file date;
- 38 (2)(L)(x) party name;
- 39 (2)(M) name, business address, business telephone number, and business email
- 40 address of an adult person or business entity other than a party or a victim
- 41 or witness of a crime;
- 42 (2)(N) name, address, telephone number, email address, date of birth, and last
- 43 four digits of the following: driver's license number; social security number;
- 44 or account number of a party;
- 45 (2)(O) name, business address, business telephone number, and business email
- 46 address of a lawyer or licensed paralegal practitioner appearing in a case;
- 47 (2)(P) name, business address, business telephone number, and business email
- 48 address of court personnel other than judges;
- 49 (2)(Q) name, business address, and business telephone number of judges;
- 50 (2)(R) name, gender, gross salary and benefits, job title and description, number
- 51 of hours worked per pay period, dates of employment, and relevant
- 52 qualifications of a current or former court personnel;
- 53 (2)(S) unless classified by the judge as private or safeguarded to protect the
- 54 personal safety of the juror or the juror's family, the name of a juror
- 55 empaneled to try a case, but only 10 days after the jury is discharged;
- 56 (2)(T) opinions, including concurring and dissenting opinions, and orders entered
- 57 in open hearings;
- 58 (2)(U) order or decision classifying a record as not public;
- 59 (2)(V) private record if the subject of the record has given written permission to
- 60 make the record public;
- 61 (2)(W) probation progress/violation reports;
- 62 (2)(X) publications of the administrative office of the courts;
- 63 (2)(Y) record in which the judicial branch determines or states an opinion on the
- 64 rights of the state, a political subdivision, the public, or a person;
- 65 (2)(Z) record of the receipt or expenditure of public funds;
- 66 (2)(AA) record or minutes of an open meeting or hearing and the transcript of them;
- 67 (2)(BB) record of formal discipline of current or former court personnel or of a
- 68 person regulated by the judicial branch if the disciplinary action has been
- 69 completed, and all time periods for administrative appeal have expired, and
- 70 the disciplinary action was sustained;
- 71 (2)(CC) record of a request for a record;
- 72 (2)(DD) reports used by the judiciary if all of the data in the report is public or the
- 73 Judicial Council designates the report as a public record;
- 74 (2)(EE) rules of the Supreme Court and Judicial Council;

- 75 (2)(FF) search warrants, the application and all affidavits or other recorded
76 testimony on which a warrant is based are public after they are unsealed
77 under Utah Rule of Criminal Procedure 40;
78 (2)(GG) statistical data derived from public and non-public records but that disclose
79 only public data; and
80 (2)(HH) notwithstanding subsections (6) and (7), if a petition, indictment, or
81 information is filed charging a person 14 years of age or older with a felony
82 or an offense that would be a felony if committed by an adult, the petition,
83 indictment or information, the adjudication order, the disposition order, and
84 the delinquency history summary of the person are public records. The
85 delinquency history summary shall contain the name of the person, a listing
86 of the offenses for which the person was adjudged to be within the
87 jurisdiction of the juvenile court, and the disposition of the court in each of
88 those offenses.

89 **(3) Sealed Court Records.** The following court records are sealed:

- 90 (3)(A) records in the following actions:
91 (3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months
92 after the conclusion of proceedings, which are private until
93 sealed;
94 (3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six
95 months after the conclusion of proceedings, which are
96 private until sealed;
97 (3)(A)(iii) Section 76-7-304.5 – Consent required for abortions
98 performed on minors; and
99 (3)(A)(iv) Section 78B-8-402 – Actions for disease testing;
100 (3)(B) expunged records;
101 (3)(C) orders authorizing installation of pen register or trap and trace device under
102 Utah Code Section 77-23a-15;
103 (3)(D) records showing the identity of a confidential informant;
104 (3)(E) records relating to the possession of a financial institution by the
105 commissioner of financial institutions under Utah Code Section 7-2-6;
106 (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
107 (3)(G) records designated as sealed by rule of the Supreme Court;
108 (3)(H) record of a Children's Justice Center investigative interview after the
109 conclusion of any legal proceedings; and
110 (3)(I) other records as ordered by the court under Rule 4-202.04.

112 **(4) Private Court Records.** The following court records are private:

- 113 (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;
- (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, 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) ~~records related to determinations~~affidavit of indigency;
- (4)(D) an affidavit supporting a motion to waive fees;
- (4)(E) aggregate records other than public aggregate records under subsection (2);
- (4)(F) alternative dispute resolution records;
- (4)(G) applications for accommodation under the Americans with Disabilities Act;
- (4)(H) jail booking sheets;
- (4)(I) citation, but an abstract of a citation that redacts all non-public information is public;
- (4)(J) judgment information statement;
- (4)(K) judicial review of final agency action under Utah Code Section 62A-4a-1009;
- (4)(L) 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)(M) 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)(N) medical, psychiatric, or psychological records;

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

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

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

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

(4)(O)(iv) protective orders and stalking injunctions; and

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

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

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

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

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

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

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

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

(4)(W) victim impact statements;

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

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

(4)(AA) 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

- 201 anticipation of litigation or a judicial, quasi-judicial, or administrative
202 proceeding;
- 203 (5)(B) records that are subject to the attorney client privilege;
- 204 (5)(C) bids or proposals until the deadline for submitting them has closed;
- 205 (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation
206 before issuance of the final recommendations in these areas;
- 207 (5)(E) budget recommendations, legislative proposals, and policy statements, that if
208 disclosed would reveal the court's contemplated policies or contemplated
209 courses of action;
- 210 (5)(F) court security plans;
- 211 (5)(G) investigation and analysis of loss covered by the risk management fund;
- 212 (5)(H) memorandum prepared by staff for a member of any body charged by law
213 with performing a judicial function and used in the decision-making process;
- 214 (5)(I) confidential business records under Utah Code Section 63G-2-309;
- 215 (5)(J) record created or maintained for civil, criminal, or administrative enforcement
216 purposes, audit or discipline purposes, or licensing, certification or
217 registration purposes, if the record reasonably could be expected to:
- 218 (5)(J)(i) interfere with an investigation;
- 219 (5)(J)(ii) interfere with a fair hearing or trial;
- 220 (5)(J)(iii) disclose the identity of a confidential source; or
- 221 (5)(J)(iv) concern the security of a court facility;
- 222 (5)(K) record identifying property under consideration for sale or acquisition by the
223 court or its appraised or estimated value unless the information has been
224 disclosed to someone not under a duty of confidentiality to the courts;
- 225 (5)(L) record that would reveal the contents of settlement negotiations other than the
226 final settlement agreement;
- 227 (5)(M) record the disclosure of which would impair governmental procurement or give
228 an unfair advantage to any person;
- 229 (5)(N) record the disclosure of which would interfere with supervision of an offender's
230 incarceration, probation, or parole;
- 231 (5)(O) record the disclosure of which would jeopardize life, safety, or property;
- 232 (5)(P) strategy about collective bargaining or pending litigation;
- 233 (5)(Q) test questions and answers;
- 234 (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
- 235 (5)(S) record of a Children's Justice Center investigative interview before the
236 conclusion of any legal proceedings;
- 237 (5)(T) presentence investigation report;
- 238 (5)(U) except for those filed with the court, records maintained and prepared by
239 juvenile probation; and
- 240 (5)(V) other records as ordered by the court under Rule 4-202.04.
- 241
- 242 **(6) Juvenile Court Social Records.** The following are juvenile court social records:
- 243 (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.

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289 *Effective May/November 1, 20__*

Rule 4-403. Electronic signature and signature stamp use.**Intent:**

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

Applicability:

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

Statement of the Rule:

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

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

(1)(B) bench warrants;

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

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

(1)(E) orders to show cause;

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

(1)(G) summons;

(1)(H) supplemental procedure orders;

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

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

(1)(K) orders for transportation of a person in custody to a court hearing, including writs of habeas corpus ad prosequendum and testificandum; and

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

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

(3) ~~In a case where a domestic relations injunction must be issued under URCP 109, the electronic signature of the judge assigned to the case may be automatically attached to the domestic relations injunction form approved by the Judicial Council, without the need for specific direction from the assigned judge and without the need for a clerk's signature accompanying the judge's signature.~~ The electronic signature of a judge may be

automatically affixed to the following documents without the need for specific direction from the assigned judge when issued using a form approved by the Judicial Council:

(3)(A) a domestic relations injunction issued under URCP 109;

and

(3)(B) an automatic expungement order issued under Utah Code § 77-40-114.

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

Effective ~~January 1, 2020~~

TAB 3

- **CJA 3-303. Justice court clerks**

Notes: The Board of Justice Court Judges is proposing a new requirement that all justice court clerks be certified by passing an exam following an AOC justice court clerk training course. The training will be approved by the Board of Justice Court Judges and offered remotely via the learning management system (LMS).

Rule 3-303. Justice court clerks.**Intent:**

To provide for clerical services in justice courts and to establish uniform responsibilities for justice court clerks.

Applicability:

This rule shall apply to all justice courts.

Statement of the Rule:

(1) Clerks shall be provided to each justice court to assist the judge in managing the operation of the courts. The clerk shall have primary responsibility for performing clerical duties including:

- (A) recordkeeping;
- (B) filing reports;
- (C) scheduling hearings and trials;
- (D) mailing notices;
- (E) maintaining case files;
- (F) collecting fines;
- (G) docketing cases;
- (H) taking and certifying acknowledgments and administering oaths; and
- (I) other court related duties as assigned.

(2) The judge shall concur in the appointment of the clerk assigned to serve the court and shall participate in the personnel evaluation process for that clerk.

(3) If the clerk is serving the court in a part time capacity, the clerk shall not be assigned to other duties which present a conflict of interest or promote an appearance of impropriety regarding court responsibilities.

(4) Counties and municipalities are responsible for bearing the expense of providing clerical services to the justice courts located within their jurisdictions.

(5) Each clerk shall be certified on an annual basis by taking the training approved by the Board of Justice Court Judges and passing an exam.